

May 2014 | Final Supplemental Environmental Impact Report

# GENERAL PLAN LAND USE ELEMENT AMENDMENT

City of Newport Beach

*Prepared for:*

**City of Newport Beach**

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# 1. Introduction

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## 1.1 INTRODUCTION

This Final Supplemental Environmental Impact Report (Final SEIR) has been prepared in accordance with the California Environmental Quality Act (CEQA) as amended (Public Resources Code Section 21000 et seq.) and CEQA Guidelines (California Administrative Code Section 15000 et seq.).

According to CEQA Guidelines, Section 15132, the FEIR shall consist of:

- (a) The Draft Environmental Impact Report (DEIR) or a revision of the Draft;
- (b) Comments and recommendations received on the DEIR either verbatim or in summary;
- (c) A list of persons, organizations, and public agencies comments on the DEIR;
- (d) The responses of the Lead Agency to significant environmental points raised in the review and consultation process; and
- (e) Any other information added by the Lead Agency.

This document contains responses to comments received on the Draft Supplemental Environmental Impact Report (Draft SEIR) for the City of Newport Beach General Plan Land Use Element Amendment during the public review period, which began March 17, 2014, and closed April 30, 2014. This document has been prepared in accordance with CEQA and the CEQA Guidelines and represents the independent judgment of the Lead Agency (Pub. Resources Code, § 21166; CEQA Guidelines, §§ 15162-15163.) . This document and the circulated Draft SEIR comprise the Final SEIR, in accordance with CEQA Guidelines, Section 15132.

## 1.2 FORMAT OF THE FINAL SEIR

This document is organized as follows:

***Section 1, Introduction.*** This section describes CEQA requirements and content of this Final SEIR.

***Section 2, Response to Comments.*** This section provides a list of agencies and interested persons commenting on the Draft SEIR; copies of comment letters received during the public review period, and individual responses to written comments. To facilitate review of the responses, each comment letter has been reproduced and assigned a number (A-1 through A-5 for letters received from agencies, O-1 through O-6 for letters received from organizations, and I-1 through I-23 for letters received from individuals). Individual comments have been numbered for each letter and the letter is followed by responses with references to the corresponding comment number.

## 1. Introduction

***Section 3. Revisions to the Draft SEIR.*** This section contains revisions to the Draft SEIR text and figures as a result of the comments received by agencies and interested persons as described in Section 2, and/or errors and omissions discovered subsequent to release of the Draft SEIR for public review.

The responses to comments contain material and revisions that will be added to the text of the Final SEIR. City of Newport Beach staff has reviewed this material and determined that none of this material constitutes the type of significant new information that requires recirculation of the Draft SEIR for further public comment under CEQA Guidelines Section 15088.5. None of this new material indicates that the project will result in a significant new environmental impact not previously disclosed in the Draft SEIR. Additionally, none of this material indicates that there would be a substantial increase in the severity of a previously identified environmental impact that will not be mitigated, or that there would be any of the other circumstances requiring recirculation described in Section 15088.5.

### 1.3 CEQA REQUIREMENTS REGARDING COMMENTS AND RESPONSES

CEQA Guidelines Section 15204 (a) outlines parameters for submitting comments, and reminds persons and public agencies that the focus of review and comment of Draft EIRs should be “on the sufficiency of the document in identifying and analyzing possible impacts on the environment and ways in which significant effects of the project might be avoided or mitigated. Comments are most helpful when they suggest additional specific alternatives or mitigation measures that would provide better ways to avoid or mitigate the significant environmental effects. At the same time, reviewers should be aware that the adequacy of an EIR is determined in terms of what is reasonably feasible. ...CEQA does not require a lead agency to conduct every test or perform all research, study, and experimentation recommended or demanded by commenters. When responding to comments, lead agencies need only respond to significant environmental issues and do not need to provide all information requested by reviewers, as long as a good faith effort at full disclosure is made in the EIR.”

CEQA Guidelines Section 15204 (c) further advises, “Reviewers should explain the basis for their comments, and should submit data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts in support of the comments. Pursuant to Section 15064, an effect shall not be considered significant in the absence of substantial evidence.” Section 15204 (d) also states, “Each responsible agency and trustee agency shall focus its comments on environmental information germane to that agency’s statutory responsibility.” Section 15204 (e) states, “This section shall not be used to restrict the ability of reviewers to comment on the general adequacy of a document or of the lead agency to reject comments not focused as recommended by this section.”

In accordance with CEQA, Public Resources Code Section 21092.5, copies of the written responses to public agencies will be forwarded to those agencies at least 10 days prior to certifying the environmental impact report. The responses will be forwarded with copies of this Final SEIR, as permitted by CEQA, and will conform to the legal standards established for response to comments on Draft EIRs.

## 2. Response to Comments

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Section 15088 of the CEQA Guidelines requires the Lead Agency (City of Newport Beach) to evaluate comments on environmental issues received from public agencies and interested parties who reviewed the Draft SEIR and prepared written responses.

This section provides all written responses received on the Draft SEIR and the City of Newport Beach's responses to each comment.

Comment letters and specific comments are given letters and numbers for reference purposes. Introductory material in the letters that does not include a substantive comment requiring a response is noted as "Intro." Where sections of the Draft SEIR are excerpted in this document, the sections are shown indented. Changes to the Draft SEIR text are shown in underlined text for additions and ~~strikeout~~ for deletions.

The following is a list of agencies and persons that submitted comments on the Draft SEIR during the public review period.

Number Reference	Commenting Person/Agency	Date of Comment	Page No.
<b>Agencies</b>			
A1	City of Irvine	April 23, 2014	2-3
A2	Caltrans	April 24, 2014	2-7
A3	City of Costa Mesa	April 29, 2014	2-7
A4	Airport Land Use Commission for Orange County	April 30, 2014	2-17
A5	California Coastal Commission	April 30, 2014	2-21
<b>Organizations</b>			
O1	Gabrielino Band of Mission Indians	March 17, 2014	2-33
O2	The Gas Company	April 25, 2014	2-37
O3A	Starpointe Ventures	April 28, 2014	2-41
O3B	Starpointe Ventures/RBF	April 30, 2104	
O4	Banning Ranch Conservancy	April 30, 2014	2-57
O5	California Cultural Resource Preservation Alliance, Inc.	April 30, 2014	2-61
O6	Still Protecting Our Newport (SPON)	April 30, 2014	2-65
<b>Individuals</b>			
I1	Barry L. Allen	April 7, 2014	2-83
I2	B. Franciscus	April 10, 2014	2-87
I3	Karen H. Clark	April 22, 2014	2-91
I4	Greg Sullivan	April 23, 2014	2-95
I5 A I5 B	Andrea Lingle	April 25, 2014 April 30, 2014	2-99

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Number Reference	Commenting Person/Agency	Date of Comment	Page No.
I6	Dwight Ryan	April 26, 2014	2-107
I7A I7B	Denys H. Oberman	April 29, 2014 April 29, 2014	2-111
I8	Laura Curran	April 29, 2014	2-123
I9	Richard Sungaila	April 29, 2014	2-127
I10 A I10 B	Bruce Bartram	April 30, 2014 April 30, 2014	2-131
I11 A I11 B	Carl Cassidy	April 30, 2014 May 1, 2014	2-143
I12	Dorothy Kraus	April 30, 2014	2-151
I13	Debbie Stevens	April 30, 2014	2-163
I14 A I14 B	Jim Mosher	April 30, 2014 April 30, 2014	2-195
I15	Portia Weiss	April 30, 2014	2-207
I16	Susan Harker	April 30, 2014	2-213
I17	Suzanne Foster	April 30, 2014	2-217
I18	Tomlu Baker	April 30, 2014	2-223
I19	Eric Sanders	May 1, 2014	2-229
I20	Margaret Chapman	May 1, 2014	2-235
I21	CarouselPress	May 2, 2014	2-241
I22	Kathryn Olsen	May 2, 2014	2-247
I23	Tom Adams	May 11, 2014	2-251

## 2. Response to Comments

LETTER A1 – City of Irvine (2 pages)



Community Development

[www.cityofirvine.org](http://www.cityofirvine.org)

100 Civic Center Drive, Newport Beach, CA 92660

(949) 253-9330

April 23, 2014

Mr. Gregg Ramirez  
Senior Planner  
City of Newport Beach  
100 Civic Center Drive  
Newport Beach, CA 92660

Via: USPS and email

**Subject: Review of a Draft Supplemental Environmental Impact Report (SCH# 2013101064) for the Newport Beach General Plan Land Use Element Amendment**

Dear Mr. Ramirez:

City of Irvine staff has received and reviewed the information for the referenced project and offers the following comments:

- |   |      |
|---|------|
| 1. Comparing the average daily volumes (ADTs) between the 2006 General Plan (Figure 3A of the traffic study) and the Proposed Project (Figure 4A of the traffic study), it is unclear how the net additional 933 AM trips, 994 PM trips and 10,771 ADT in the Airport Area are distributed throughout the network. Please add a figure to the traffic study that identifies the project trip distribution.                        | A1-1 |
| 2. In Section 2.6 of the traffic study, the build-out "General Plan Improvements" located within the City of Irvine are consistent with build-out assumptions currently in the City of Irvine Transportation Analysis Model (ITAM). Please note that these assumptions are subject to change based on evolving build-out conditions. Particularly noteworthy are those improvements for which a funding source is not identified. | A1-2 |
| 3. The Recreation Section indicates there are parks nearby that would serve future residential development in the Airport Area. Please identify the name and distance of these parks from the center of the Airport Area.   | A1-3 |

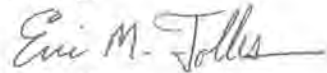
## 2. Response to Comments

Mr. Gregg Ramirez  
April 23, 2014  
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Thank you for the opportunity to review and comment on the proposed project. We would appreciate the opportunity to review any further information regarding this project as the planning process proceeds.

If you have any questions, please contact David Law, Senior Planner, at 949-724-6314 or by email at [dlaw@cityofirvine.org](mailto:dlaw@cityofirvine.org).

Sincerely,



Eric M. Tolles  
Director of Community Development

cc: Barry Curtis, Manager of Planning Services  
Bill Jacobs, Principal Planner (via email)  
David Law, Senior Planner (via email)  
Sun-Sun Murillo, Supervising Transportation Analyst (via email)

## 2. Response to Comments

### **A1. Response to Comments from the City of Irvine, Eric M. Tolles, Director of Community Development, dated April 23, 2014.**

A1-1 Exhibits A1-1a and A1-1b as provided as Final SEIR Attachment B, *Distribution of Project Volume Changes*, show the project trip changes, in terms of anticipated project trip distribution, on the study area roadway system as requested by the commenter.

A1-2 Comment acknowledged. The analysis was performed with existing lanes and with Recommended General Plan lanes. The Recommended General Plan lanes are included as represented in the appropriate jurisdiction's current plans and do not imply that a funding source is already identified.

A1-3 New residential developments in the Airport Area are required to provide parkland at five acres per 1,000 persons or contribute in-lieu fees for the development of public recreation facilities to meet demands generated by the development's resident population per the City's Park Dedication Fee Ordinance. However, existing parks in the closest service areas would also help serve future residential development. Approximate distances between the center of existing parks and the Airport Area are detailed below:

- Upper Newport Bay Nature Preserve: 1.5 miles
- Bayview Park: 1.1 miles
- Bonita Creek Park: 1.2 miles
- East Bluff Park: 1.9 miles
- Big Canyon Park: 2.5 miles

In addition, the 752-acre Upper Newport Bay State Marine Park flows adjacent to the Upper Newport Bay Nature Preserve southerly toward Lower Newport Bay and into the Pacific Ocean. The marine park offers recreational opportunities for canoeing, kayaking, and other water and beach activities.


## 2. Response to Comments

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## 2. Response to Comments

LETTER A2 – California Department of Transportation (3 pages)

STATE OF CALIFORNIA—CALIFORNIA STATE TRANSPORTATION AGENCY		EDMUND G. BROWN Jr., Governor
<b>DEPARTMENT OF TRANSPORTATION</b> DISTRICT 12 3347 MICHELSON DRIVE, SUITE 100 IRVINE, CA 92612-8894 PHONE (949) 724-2000 FAX (949) 724-2019 TTY 711 www.dot.ca.gov		 <i>Serious drought. Help save water!</i>
RECEIVED BY COMMUNITY APR 28 2014 DEVELOPMENT CITY OF NEWPORT BEACH		
April 24, 2014		
Gregg Ramirez City of Newport Beach 100 Civic Center Drive Newport Beach, CA 92660	File: IGR/CEQA SCH#: 2013101064 Log #: 1678D SR 1, SR 73, SR 55, And I-405	
Dear Mr. Ramirez,		
Thank you for the opportunity to review and comment on <b>the Supplement/Subsequent Environmental Impact Report (SSEIR) for the Newport Beach General Plan Land Use Element Amendment (Project)</b> . The project is an amendment to the City of Newport Beach General Plan Land Use Element and is intended to shape future development within the City and involves the alteration, intensification, and redistribution of land uses throughout the city. The nearest State Routes to the project area are SR 1, SR 73, SR 55, and I-405.		Intro
<b>The California Department of Transportation (Department), District 12 is a commenting agency on this project and has the following comments:</b>		
1. The Land Use Element should include language requiring the City to develop policies stressing coordination between the City and the Department early in the land use and transportation planning process.		A2-1
2. Although this particular project does not propose any new development the Department would like to emphasize that it supports General Plans (or Specific Plans) that foster a more efficient land use pattern that (a) supports improved mobility and reduced dependency on single-occupant vehicle trips, (b) accommodates an adequate supply of housing for all incomes, (c) reduces impacts on valuable habitat, productive farmland, and air quality, (d) increases resource use efficiency, and (e) results in safe and vibrant neighborhoods. The Department recognizes that non-motorized travel is a vital element of the transportation system and therefore, encourages communities make pedestrian and bicycle activity possible, thus expanding transportation options, and creating a streetscape that better serves a range of users – pedestrians, bicyclists, transit riders, and automobiles.		A2-3
<i>"Provide a safe, sustainable, integrated and efficient transportation system to enhance California's economy and livability."</i>		

## 2. Response to Comments

Mr. Gregg Ramirez

4/24/2014

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3. The traffic study in the report did not utilize the latest version of the Highway Capacity Manual (HCM). The Department's Traffic Operations Branch requests all traffic analysis be based on the method outlined in the latest version of HCM when analyzing traffic impacts on State Transportation Facilities including but not limited to freeway segments, highway segments, intersections, on or off ramps (weaving, queuing, merging and diverging). The use of HCM is preferred by the Department because it is an operational analysis as opposed to the Intersection Capacity Utilization (ICU) method, which is a planning analysis. In the case of projects that have direct impacts on State Facilities, the Department recommends that the traffic impact analysis be based on HCM method. Should the project require an encroachment permit, Traffic Operations may find the Traffic Impact Study based on ICU methodology inadequate resulting in possible delay or denial of a permit by the Department. All input sheets, assumptions and volumes on State Facilities including ramps and intersection analysis should be submitted to the Department for review and approval. All environmental documents should include appropriate mitigation measures to offset any potential impacts. The traffic impact on the state transportation system should be evaluated based on the Department's Guide for the Preparation of Traffic Impact Studies which is available at:  
<http://www.dot.ca.gov/hq/traffops/developserv/operationalsystems/reports/tisguide.pdf>.
4. The General Plan should acknowledge the Departments' standard of maintaining a target Level of Service (LOS) at the transition between LOS C and LOS D on State highway facilities. Any degradation of the LOS past this threshold should be mitigated to bring the facility back to the baseline/existing condition. For future projects that may impact State facilities, we recommend that early coordination be done between the Department and the City to fully address level of significance thresholds (transition between LOS C and D) and appropriate methods for analyzing impacts (LOS vs. Hours of Delay).
5. As new development is proposed in the future, the Department has interest in working cooperatively to establish a Traffic Impact Fee (TIF) program to mitigate impacts to State Transportation Facilities on a "fair share" basis. Local development project applicants would pay their "fair share" to an established fund for future transportation improvements on the state highway system. If there is an existing TIF program, it can be amended to include mitigation for the State Highway System or a new TIF program may be considered. The Department requests the opportunity to participate in the TIF for State Highway improvements development process.
6. As noted in the SSEIR, future projects have the potential to significantly impact SR-73 and I-405 mainline and interchanges, ramps and intersections. Impacts of development causing operating conditions to deteriorate to deficient levels of service, or impacts adding to an existing deficient level of service condition require mitigation.

A2-3  
cont'd

A2-4

A2-5

A2-6

*"Caltrans Improves mobility across California"*

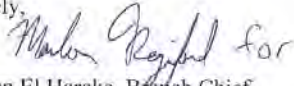
## 2. Response to Comments

Mr. Gregg Ramirez  
4/24/2014  
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- |   |                |
|---|----------------|
| 7. The Department requests to participate in the establishment and implementation of "fair share" mitigation for the project impacts. The Department has an established methodology standard used to properly calculate equitable project share contribution. This can be found in Appendix B of the Department's Guide for the Preparation of Traffic Impact Studies which is available at:<br><a href="http://www.dot.ca.gov/hq/traffops/developserv/operationalsystems/reports/tisguide.pdf">http://www.dot.ca.gov/hq/traffops/developserv/operationalsystems/reports/tisguide.pdf</a> . | A2-6<br>cont'd |
| 8. For CEQA purposes, the Department does not consider the Congestion Management Plan (CMP) significance threshold of an increase in v/c more than 1% ramps or 3% for mainline appropriate. For analysis of intersections connecting to State facilities, ramps and freeway mainline, we recommend early coordination occur to discuss level of significance thresholds related to traffic and circulation.   | A2-7           |

Please continue to keep us informed of this project and any future developments. If you have any questions or need to contact us, please do not hesitate to call Damon Davis at (949) 440-3487.

Sincerely,

  
Maureen El Harake, Branch Chief  
Local Development/Intergovernmental Review

C: Scott Morgan, Office of Planning and Research  
Saied Hashemi, Traffic Operations North

*"Caltrans improves mobility across California"*

## 2. Response to Comments

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## 2. Response to Comments

### A2. Response to Comments from Caltrans, Maureen El Harake, Branch Chief, dated April 24, 2014.

A2-1 This comment recommends a change to the project, and is not related to the environmental analysis or CEQA requirements for the LUE Amendment Draft SEIR. The recommendation will be forwarded to decision-makers for consideration and the city will continue providing future project-specific public notices to Caltrans as may be required.

A2-2 Comment acknowledged. As recognized by the commenter, the proposed General Plan LUE Amendment fosters land use patterns and includes policies to encourage improved mobility and increased transportation options. The City is currently updating its Bicycle Master Plan for inclusion in the City's Circulation Element.

A2-3 The comment notes that the traffic study did not use the latest version of the Highway Capacity Manual (HCM) to evaluate impacts on State Facilities. HCM 2000 procedures had been utilized at the time the traffic study was prepared. In response to this comment, HCM 2010 procedures have been applied, and the analysis results are summarized below and presented in the attached tables and worksheet materials (see Attachment B1, *Highway Capacity Manual 2010 Freeway Analysis*, for appendices and Attachment B2, *Highway Capacity Manual 2010 Freeway Analysis Tables*, for tables referenced in this response). Use of HCM 2010 instead of HCM 2000 procedures do not result in any substantive analysis changes, and no additional project impacts are identified. As a result, no changes to the Draft SEIR significance conclusions or findings or mitigation measures are necessary.

The freeway system in the study area (I-405, SR-73 and SR-55 freeway analysis segments) is defined by ramp-to-ramp directional segments. The freeway mainline segments have been evaluated based upon peak hour directional volumes. The freeway mainline analysis is based on the HCM 2010 Basic Freeway Segment analysis method and performed using the HCS 2010 Freeways software. Table 2-5: HCM 2010 Version contains the results of the freeway mainline analysis. Appendix 2.4: HCM 2010 Version contains the existing freeway mainline analysis worksheets. As presented in the traffic study, freeway mainline locations that experience deficient operations for Existing conditions include:

- SB I-405, SR-55 FWY to Mac Arthur Blvd, (PM Peak Hour Only)
- NB SR-73, North of Jamboree Rd, (PM Peak Hour Only)
- NB SR-55, Dyer Rd. to MacArthur Blvd, (AM and PM Peak Hours)
- NB SR-55, MacArthur Blvd. to I-405 FWY, (AM and PM Peak Hours)

## 2. Response to Comments

The merge/diverge analysis is based on the HCM 2010 Ramps and Ramp Junctions analysis method and performed using the HCS 2010 Ramps software. The attached Table 2-6: HCM 2010 Version contains the results of the freeway ramp analysis. Appendix 2.5: HCM 2010 Version contains the existing freeway ramp analysis worksheets. As presented in the traffic study, freeway ramp locations that experience deficient operations for Existing conditions include:

- I-405, SB On-Ramp at MacArthur Blvd. (PM Peak Hour Only)

The attached Table 3-2: HCM 2010 Version contains the results of the freeway mainline analysis for the adopted 2006 City of Newport Beach General Plan Land Use Element (“future baseline” or “2006 General Plan”). Appendix 3.3: HCM 2010 Version contains freeway mainline analysis worksheets for 2006 General Plan conditions. As presented in the traffic study, freeway mainline locations that experience deficient operations for 2006 General Plan conditions include:

- SB I-405, North of SR-55 FWY, (PM Peak Hour Only)
- SB I-405, SR-55 FWY to MacArthur Blvd, (AM Peak Hour Only)
- NB I-405, South of Jamboree Rd, (AM Peak Hour Only)
- NB SR-73, North of Jamboree Rd, (PM Peak Hour Only)
- NB SR-55, Dyer Rd. to MacArthur Blvd, (AM and PM Peak Hours)
- NB SR-55, MacArthur Blvd. to I-405 FWY, (AM Peak Hour Only)
- NB SR-55, I-405 FWY to SR-73, (AM Peak Hour Only)
- NB SR-55, SR-73 FWY to Mesa Dr. (AM Peak Hour Only)

Appendix 3.4: *HCM 2010 Version Analysis* contains freeway ramp analysis worksheets for 2006 General Plan conditions, and the attached Table 3-3: HCM 2010 Version contains the results of the freeway ramp analysis. As shown in the traffic study report, freeway ramp locations that experience deficient operations for 2006 General Plan conditions include:

- I-405, SB Loop Off-Ramp at MacArthur Blvd. (AM Peak Hour Only)
- I-405, NB Off-Ramp at MacArthur Blvd. (AM Peak Hour Only)

The attached Table 4-7: HCM 2010 Version contains the results of the freeway mainline analysis for the General Plan LUE Amendment (proposed project). Appendix 4.4: HCM 2010 Version contains freeway mainline analysis worksheets for analysis of the General Plan LUE Amendment (proposed project). As indicated in the traffic study, the study area freeway mainline locations identified as experiencing deficient operations for the 2006 General Plan continue to experience deficient operations for General Plan LUE Amendment (proposed project) conditions.

## 2. Response to Comments

Appendix 4.5: HCM 2010 Version contains freeway ramp analysis worksheets for the General Plan LUE Amendment (proposed project), and the attached Table 4-8: HCM 2010 Version shows the results of the freeway ramp analysis for the General Plan LUE Amendment. As presented in the traffic study, freeway ramp locations identified as experiencing deficient for the 2006 General Plan condition continue to experience deficient operations for General Plan LUE Amendment (proposed project) conditions.

In addition to the Intersection Capacity Utilization (ICU) analysis performed at study area intersections, intersections at State highway freeway ramps were also analyzed using the Synchro software (Version 8) with HCM 2010 procedures. Intersection operations analysis results are summarized in the attached Table 4-11: HCM 2010 Version for Existing (2013), 2006 General Plan and General Plan LUE Amendment conditions. The intersection operations analysis worksheets are included in Appendix 4.7: HCM 2010 Version. As presented in the traffic study, one intersection (Von Karman Av. / I-405 HOV Ramps – during AM & PM Peak Hours) is anticipated to experience unacceptable LOS (i.e., LOS “E” or worse) for 2006 General Plan traffic conditions.

The intersection analysis results summarized in Table 4-11: HCM 2010 Version indicates that the intersection Von Karman Av. at the I-405 HOV Ramps continues to experience unacceptable LOS (i.e., LOS “E” or worse) during the AM and PM peak hours for General Plan LUE Amendment (Proposed Project) conditions.

Appendix 5.2: HCM 2010 Version contains freeway main-line analysis worksheets for the project alternative (similar to the proposed project, but excluding all proposed projects in the Airport Area). The attached Table 5-5 contains the results of the freeway main-line analysis for the General Plan LUE Amendment Alternative (project alternative). As noted in the traffic study, the same study area freeway main-line locations identified as experiencing deficient operations for the 2006 General Plan conditions continue to experience deficient operations for General Plan LUE Amendment Alternative (project alternative) conditions.

Appendix 5.3: HCM 2010 Version contains freeway ramp analysis worksheets for the project alternative, and Table 5-6: HCM 2010 Version contains the results of the freeway ramp analysis for the General Plan LUE Amendment Alternative (project alternative). As noted in the traffic study, one of the freeway ramp locations that was identified as experiencing deficient LOS for the 2006 General Plan conditions is identified as experiencing deficient LOS for the General Plan LUE Amendment Alternative (project alternative), and the other freeway ramp location that was identified as experiencing deficient LOS for the 2006 General Plan conditions is not identified as experiencing deficient LOS for the General Plan LUE Amendment Alternative (project alternative). The following freeway ramp location identified previously as experiencing deficient LOS for the 2006 General Plan conditions continues to experience deficient operations for the General Plan LUE Amendment Alternative (project alternative) condition:

## 2. Response to Comments

- I-405, NB Off-Ramp at MacArthur Blvd.

A2-4 The comment recommends that the City acknowledge the Department's standard target level of service (LOS) at the transition between LOS C and LOS D on State highway facilities and that it facilitate early coordination between Caltrans and the City for future projects regarding level of significance thresholds and appropriate methods for analyzing impacts. The comment is noted, and the City will continue to consider the Department's standards in its environmental review processes for future specific projects as may be appropriate, including any revisions that may occur in the light of SB 743 which requires the Governor's Office of Planning and Research(OPR) to amend the CEQA Guidelines to provide an alternative to LOS for evaluating transportation impacts for projects within areas served by transit. (See Public Resources Code, § 21099(b)(1).) Measurements of transportation impacts may include vehicle miles traveled or vehicle miles traveled per capita, among others. The pending CEQA guidelines may stipulate the City and the Department to reassess methods for transportation analysis for certain projects.

A2-5 The comment expresses interest by Caltrans in future cooperative efforts to establish a Traffic Impact Fee (TIF) program, or modify the existing local TIF program, to mitigate impacts the significant adverse impacts of future specific projects within the City to state transportation facilities. The comment is noted, and the City will monitor and cooperate with Caltrans and OCTA as appropriate should Caltrans and/or OCTA embark on such an effort. (See Public Resources Code, § 21099(b)(1).) Measurements of transportation impacts may include vehicle miles traveled or vehicle miles traveled per capita, among others.

Note also the City's support of regional transportation planning and funding as incorporated in existing General Plan policies. As reproduced in Draft SEIR Section 5.11-11, *Transportation and Traffic*, the City's General Plan includes the following policies in the Circulation Element that support development and funding for regional transportation, including state highway improvements:

- **CE 3.1.1 Freeway System** - Encourage ongoing regional investment in the freeway system. (*Imp 14.1, 14.3, 14.9, 14.10*)
- **CE 3.1.2 Integration of Transportation Systems with Adjoining Communities and the Region** - Interface with regional and surrounding local agencies, such as Caltrans, OCTA, the County of Orange, John Wayne Airport, the Cities of Irvine, Costa Mesa, and Huntington Beach, and the University of California, Irvine to implement systems that serve the needs of regional travelers in a way that minimizes impacts on Newport Beach residents. (*Imp 14.9, 14.10, 16.5*)
- **CE 3.1.4 Regional Traffic Mitigation** - Participate in programs (Congestion Management Program, Growth Management Program, etc.) to mitigate regional traffic congestion. (*Imp 14.1, 14.3, 16.5*)



## 2. Response to Comments

- **CE 8.1.1 Transportation User and Benefit Fees** - Support legislation to increase transportation user and benefit fees, and to index such fees to keep pace with inflation, in order to provide the additional revenues for needed transportation facilities and services. (*Imp 7.3*)
- **CE 8.1.2 State Highway Revenues** - Support legislation to increase state highway revenues as needed to maintain and rehabilitate the existing state highway system and to match all available federal highway funding. (*Imp 14.9*)
- **CE 8.1.3 Innovative Transportation Funding** - Support the evaluation and implementation of innovative transportation financing mechanisms such as local tax increment districts, benefit assessment districts, and joint development and use of transportation centers. (*Imp 31.1*)
- **CE 8.1.4 Local Street and Highway Revenues** - Support measures to increase local street and highway revenues as needed to fund all road reconstruction, operation, and maintenance cost. (*Imp 7.3, 20.1*)
- **CE 8.1.5 Comprehensive Funding Program** - Support measures to develop and implement a continuing funding program, including private sector participation and an equitable fare structure, to fund the construction, operation, and maintenance of transit facilities and services. (*Imp 7.2, 7.3, 20.1*)
- **CE 8.1.6 Annual Budgeting for Improvements** - Annually review and consider budgeting for projects contributing to completion of the Master Plan of Streets and Highways. (*Imp 7.3, 30.1*)
- **CE 8.1.7 Fair Share Fee Ordinance** - Periodically review the Fair Share Fee Ordinance, reassess the unfunded cost of required improvements, and adjust the required Fair Share Fees as appropriate. (*Imp 7.2*)
- **CE 8.1.8 Roadway Improvements Funding** - Fund costs of major roadway facility and intersection improvements through gas tax revenues, federal, state, and county grants, and City ordinances to avoid burdening the General Fund to the extent that this is possible. (*Imp 7.2, 7.3, 30.2*)

A2-6 Please refer to Response A2-5.

A2-7 The commenter requests City participation in the establishment and implementation of fair share mitigation for future project specific significant impacts. The comment is acknowledged. Please see Response A2-5.

## 2. Response to Comments

- A2-8 For analysis of intersections connecting to state facilities, ramps, and freeway main lines, the comment recommends early coordination between Caltrans and the City regarding level of significance thresholds, particularly related to CMP criteria. The comment is noted and the City will consider this recommendation, especially in the light of SB 743 reassessment of methods for transportation analysis that may affect state policies in the near future.

## 2. Response to Comments

LETTER A3– City of Costa Mesa (2 pages)



### CITY OF COSTA MESA

P.O. BOX 1200 • 77 FAIR DRIVE • CALIFORNIA 92628-1200

DEVELOPMENT SERVICES DEPARTMENT

April 29, 2014

Greg Ramirez  
City of Newport Beach  
100 Civic Center Drive  
Newport Beach, CA 92660

**Subject: Draft Supplemental Environmental Impact Report (DEIR) for Land Use Element**

Dear Mr. Ramirez:

Thank you for the opportunity to provide comments on the Draft Supplemental EIR related to updating of the City's General Plan Land Use Element. The following comments are related to land use, parkland and traffic sections of the DEIR. Intro

**Land Use:**

*West Newport Mesa*

The draft land use area directly abutting the City of Costa Mesa is referred to as "West Newport Mesa." As you are aware the area to the north within City of Costa Mesa limits is in an overlay district named "Mesa West Bluffs Urban Plan" that allows mixed use, live/work and residential development. The underlying zoning is Light Industrial (MG) and light industrial uses are permitted by zoning. A3-1

On Page 4.8-10 of the Environmental Analysis, there is reference to compatibility of residential development and industrial uses as follows:

".....where new residential uses are developed in the City or in adjacent Costa Mesa, requirements would need to be placed on the new residential uses to minimize land use conflicts with existing industrial designations and uses."

The Westside urban plans include large separation requirements from major industrial uses; however, there is no specific setback requirement from light industrial or manufacturing uses or other uses typically located in light industrial zoning (auto repair, etc.). During site plan review, we consider the best alternatives for the site layout and building design that would minimize any potential conflicts between residences and adjacent industries. In addition, as a condition of approval, the future buyers are required to be notified for any potential noise, odor, and fumes that may be present in vicinity of the site as a result of that area's general industrial uses.

We believe that there should not be any reference to additional requirements in the Draft Supplemental EIR with respect to development in Costa Mesa.

## 2. Response to Comments

### *John Wayne Airport*

The DEIR refers to the addition of 1,179 units (not including potential density bonus units) in the airport area. There is a concern that the proposed number of units may have an impact on nearby parks in Costa Mesa (i.e., Tewinkle Park), since existing parks will not be within walking distance and mostly accessible by cars. In addition, the DEIR refers to the requirement of parkland dedication and/or an in-lieu fee to address park impacts. Per the City of Newport Beach's subdivision ordinance parkland dedication and in-lieu fees are applicable to only subdivision projects. There is a concern that rental apartments / non-subdivided projects will not be subject to park fees and could impose additional impacts on parks in both cities. A3-2

### **Traffic:**

- Provide additional information on the trip distribution within Costa Mesa and analysis of any intersection that would experience an increase of 50 peak hour trips. A3-3

We look forward to participating in any additional reviews before completion of the final Supplemental EIR and thank you for considering the City's comments.

Sincerely,



Gary Armstrong, AICP  
Director of Economic & Development /  
Deputy CEO

cc: City Council  
CEO  
Jerry Guarracino  
Raja Sethuraman

## 2. Response to Comments

### A3. **Response to Comments from the City of Costa Mesa, Gary Armstrong, AICP, Director of Economic & Development/Deputy CEO, dated April 29, 2014.**

A3-1 The text referenced in this comment: "... Where new residential uses are developed in the City of adjacent Costa Mesa, requirements would need to be placed on the new residential uses..." is excerpted from the 2006 General Plan EIR, which has already been certified and not the current Draft SEIR, for which this Final SEIR is being prepared. The Draft SEIR does not include any references to requirements on development in Costa Mesa.

A3-2 New residential developments in the Airport Area are required to provide parkland at five acres per 1,000 persons or contribute in-lieu fees for the development of public recreation facilities to meet demands generated by the development's resident population per the City's Park Dedication Fee Ordinance. However, existing parks in the closest service areas would also help serve future residential development. Approximate distances between the center of existing parks and the Airport Area are detailed below:

- Upper Newport Bay Nature Preserve: 1.5 miles
- Bayview Park: 1.1 miles
- Bonita Creek Park: 1.2 miles
- East Bluff Park: 1.9 miles
- Big Canyon Park: 2.5 miles

In addition, the 752-acre Upper Newport Bay State Marine Park is adjacent to the Upper Newport Bay Nature Preserve and flows southerly toward Lower Newport Bay and into the Pacific Ocean. The marine park offers recreational opportunities for canoeing, kayaking, and other water and beach activities.

A3-3 Exhibits A1-1a and A1-1b have been developed to show the project trip changes on the study area roadway system (see Section 3.3, *Revised and New Figures*). The results of this additional review of changes in volumes with the project show that the study area included in the TIA was adequate.

## 2. Response to Comments

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## 2. Response to Comments

LETTER A4 – Airport Land Use Commission for Orange County (3 pages)



### AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY

3160 Airway Avenue • Costa Mesa, California 92626 • 949.252.5170 fax: 949.252.5178

April 30, 2014

Gregg B. Ramirez, Senior Planner  
Planning Department, Community and Economic Development  
City of Newport Beach  
100 Civic Center Drive  
Newport Beach, CA 92660

Subject: City of Newport Beach General Plan Land Use Element Amendment

Dear Mr. Ramirez:

Thank you for the opportunity to review the Draft Supplemental Environmental Impact Report (DSEIR) for the City of Newport Beach General Plan Land Use Element Amendment in the context of the Airport Land Use Commission's *Airport Environs Land Use Plan for John Wayne Airport (JWA AELUP)*. We wish to offer the following comments and respectfully request consideration of these comments as you proceed to finalize your DSEIR.

Intro

The proposed General Plan Land Use Element Amendment involves the alteration, intensification, and redistribution of land uses in certain areas of the City, including major areas such as Newport Center/Fashion Island and the Airport Area near John Wayne Airport.

The proposed General Plan Land Use Element Amendment raises potentially significant land use compatibility impact concerns centered around one of the Planning Areas in the City's proposal - designated Area 4 "Airport Area" in the Newport Beach General Plan Land Use Element Amendment. In light of this area's close proximity to John Wayne Airport, Orange County (SNA) ("JWA"), and its location which is directly under a general aviation, low-altitude, primary flight corridor, the DSEIR should specifically address the impacts of development of new residential neighborhoods in terms of compatibility with the *AELUP for JWA*. The Commission does not find residential uses appropriate in this area because of aircraft noise impacts, significant overflight of general aviation aircraft and safety zone issues.

A4-1

The proposed land use changes to the Airport Area are located within the 65 CNEL and/or the 60 CNEL contours for JWA. The Saunders Property discussed in the DSEIR is located in both the 60 and 65 CNEL noise contours and is proposing residential in the 60

A4-2

## 2. Response to Comments

ALUC Comments  
Newport Beach General Plan Land Use Element Amendment  
4.30.14  
Page 2

CNEL portion of the property. The DSEIR should address impacts related to incompatible development within the 65 dB and 60 dB CNEL contours and address ALUC policies contained in the *JWA AELUP*.

A4-2  
cont'd

With the proposed increase in residential and mixed use land uses it is important that the DSEIR address the portions of the proposed project area that are within the Federal Aviation Regulation (FAR) Part 77 Imaginary Surfaces aeronautical obstruction area and those portions located on the AELUP Height Restriction Zone Map for JWA. The environmental document should address these height restrictions relative to both the notification and imaginary surfaces for JWA. Because the height restrictions provided are only estimates, ALUC staff recommends that policies be established ensuring that the maximum allowable building heights for projects located within the JWA Planning Area do not penetrate the FAA Part 77 Obstruction surfaces for JWA and we recommend editing Land Use Element Goal LU 6.15.3 Airport Compatibility to include reference to height restrictions set forth by ALUC. See proposed edits to Land Use Element Goal LU 6.15.3 below:

A4-3

*Require that all development be constructed in conformance with the height restrictions set forth by Federal Aviation Administration (FAA) Federal Aviation Regulations (FAR) Part 77, ~~and~~ Caltrans Division of Aeronautics, and by the Airport Land Use Commission (ALUC) for Orange County; that residential development be located outside of the 65 dBA CNEL noise contour specified by the 1985 JWA Master Plan; and that development will be in compliance with safety zone restrictions as defined in the AELUP for JWA.*

Land uses located in the City of Newport Beach Airport Area fall within the Safety Zones for JWA. All the subareas within the Airport Area fall in Safety Zone 6 except one portion of the Saunders Properties which also falls in Safety Zone 3. Safety Zone 6 allows for residential uses, most nonresidential uses; prohibits outdoor stadiums and similar uses with very high intensities and must avoid children's schools, large day care centers, hospitals, and nursing homes.

As mentioned above, the Saunders Properties are partly in Safety Zone 6 and partly in Safety Zone 3. Safety Zone 3 limits residential uses to very low densities (if not deemed unacceptable because of noise), and advises to avoid nonresidential uses having moderate or higher usage intensities (e.g., major shopping centers, fast food restaurants, theaters, meeting halls, buildings with more than three above ground habitable floors are generally unacceptable).

A4-4

The proposed land use designation for the Saunders Properties is Mixed Use Horizontal (MU-H2). Under the existing Airport Office and Supporting Uses (AO) designation, the permitted (and existing use) is 302,923 square feet office. The redesignation would permit up to 545,000 square feet of office use (an increase of 238,077 square feet of office) and an addition of 329 residential units.



## 2. Response to Comments

ALUC Comments  
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Page 3

Because the Newport Beach General Plan prohibits residential units within the 65 CNEL noise contour for JWA, the Saunders Properties would only be allowed to develop office uses within that 65 CNEL portion of the property. The remaining portion of the property falls within the 60 CNEL noise contour where residential uses would be permitted. However, the placement of high density housing is not consistent with the land use compatibility standards for Safety Zone 3. For consistency with the AELUP safety zones, the residential units would have to be within the Safety Zone 6 portion of this property and outside of the 65 CNEL JWA Master Plan contour. At this time, no specific land use plan is being proposed, however, it is important to note the safety zone compatibility standards. To address this issue, see the suggested edits above to Land Use Element Goal LU 6.15.3

A4-4  
cont'd

Given that the proposed general plan amendment provides for new residential development patterns in the John Wayne Airport Area, the DSEIR should discuss the incompatibility of residential land uses within close proximity to JWA. General Plan policies and environmental mitigation measures should be included restricting residential uses within areas of the General Plan-designated "John Wayne Airport Area" that experience significant overflight by aircraft and aircraft noise. Future zoning level development standards related to residential development surrounding JWA should be considered.

The DSEIR also addresses an alternative which would not change existing land use designations. This alternative would be preferable from an ALUC perspective, rather than increasing residential and mixed use designations as proposed with this Land Use Element Amendment.

A4-5

Thank you for the opportunity to comment on this DSEIR. Please contact Lea Choum at (949) 252-5123 or via email at [lchoum@ocair.com](mailto:lchoum@ocair.com) should you require additional information.

Sincerely,



Kari A. Rigoni  
Executive Officer

## 2. Response to Comments

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## 2. Response to Comments

### A4. **Response to Comments from the Airport Land Use Commission for Orange County, Kari A. Rigoni, Executive Officer, dated April 30, 2014.**

A4-1 As recommended in this comment letter and also in the Airport Land Use Commission's response to the Draft SEIR Notice of Preparation (dated 11/21/13), the Draft SEIR does specifically address the potential development of residential neighborhoods in terms of compatibility with the JWA Airport Environs Land Use Plan (AELUP). AELUP consistency is addressed in the following Draft SEIR sections:

#### ■ *Section 5.5, Hazards and Hazardous Materials*

The environmental setting section summarizes the building height restrictions per the AELUP as well as City requirement to submit development projects higher than 200 feet above existing grade to ALUC for review. Figure 5.5-1, *Safety Zones, Airport Area*, and Table 5.5-5, *Land use Compatibility: John Wayne Airport Safety Zones*, provide detailed safety zone restrictions and compatibility information from the AELUP. Federal Aviation Administration (FAA) Part 77 regulations restrictions are depicted in Draft SEIR Figure 5.5-2. Each of the properties in the Airport Area proposed for land use changes are evaluated relative the safety zones, and building height restrictions are reviewed for both the Airport Area and Newport Center/Fashion Island (Impact 5.5-2, pages 5.5-33 through 5.5-38). As concluded in the Draft SEIR, high density residential development within the portion of the Saunders Properties within Safety Zone 3 would not be a compatible use, and residential uses would therefore be required to be developed within the Safety Zone 6 portion of the property. Review of the AELUP safety zones relative to proposed future land use decisions is required by General Plan Policy S. 8.6 from the Safety Element, as reproduced on Draft SEIR page 5.5-39.

Land uses proposed within the remaining Airport Area parcels (Lyon Companies, the Hangars, and UAP Companies) would be consistent the compatibility guidelines for this zone.

#### ■ *Section 5.7, Land Use and Planning*

The environmental setting section summarizes the Airport Land Use Commission's (ALUC) authority and summarizes the land use compatibility review role of the commission and the contents of the AELUP. LUE Amendment consistency with the AELUP is addressed under Impact 5.7-3, Draft SEIR pages 5.7-18 through 5.7-19), including review of the following:

- Potential Hazards to People and Structure on the Ground (Safety Zones)
- Potential Hazards to Aircraft in Flight (FAR Part 77)
- Potential Aircraft Noise Impacts

## 2. Response to Comments

The Draft SEIR concludes that upon compliance with the AELUP safety zone land use compatibility requirements, FAR part 77 regulations, Policy N 3.2 of the General Plan, and CCR Title 21, the proposed project would be consistent with the AELUP, and airport-related hazards and noise impacts would be less than significant. General Plan Policy N 3.2 requires that all residential development in the Airport Area be outside of the 65 dBA CNEL noise contour (no larger than shown in the 1985 JWA Master Plan and require residential developers to notify prospective purchasers or tenants of aircraft overflight and noise). Policy N 1.1 requires that all proposed projects be compatible with the noise environment through use of Table N2, and that the City enforce the interior and exterior noise standards shown in Table N3., and CCR Title 32 requires an interior noise standard of 45 dBA CNEL as outlined in the AELUP for JWA.

### ■ *Section 5.8, Noise*

The environmental setting includes a description of California State Regulations establishing a 65 dBA CNEL as the acceptable level of aircraft noise for persons living in the vicinity of airport, noting that noise-sensitive land uses are incompatible in locations where this noise level is exceeded for airport noise. It also provides the regulatory context for airport noise and existing JWA noise contours (Draft SEIR Figure 5.8-1)

Each of the proposed land use change areas proximate to the airport is evaluated under Impact 5.8-4 for potential airport-related noise. Proposed land use changes for the Hangars, Lyon Companies, and UAP Companies parcels are consistent with the noise guidelines. A portion of the Saunders Properties is within Noise Impact Zone 1 (65 dBA CNEL contour), for which the AELUP policies do not allow residential development. The City's General Plan Policy N 3.2 requires that residential development in the Airport Area be outside of the 65 dBA CNEL contour. Residential development on The Saunders Properties would therefore be limited to the portion outside this contour and so would be consistent with the AELUP.

A4-2 As detailed above in response A4-1, the Draft SEIR does address impacts specific to the Saunders Properties relative to its location partially within the 65 dBA CNEL and partially within the 60 CNEL. Figure 5.8-2, *John Wayne Airport Noise Impact Zones & Site of Proposed Land Use Changes*, also provides the Saunders Properties (Site 4A) boundary relative to the 65 and 60 dBA CNEL. As explained above, residential development will be prohibited on the Saunders Properties within the 65 dBA CNEL contour to ensure consistency with the AELUP.

Draft SEIR Figure 5.8-3, *Airport Land Use Commission for Orange County Noise Compatibility Guidelines*, is provided as Table 1 in the Land Use Policies section of the AELUP. The

## 2. Response to Comments

Draft SEIR reviews uses deemed to be incompatible by noise zone and provides an appropriate level of review to conclude that the project would comply with ALUC requirements. For additional clarity to respond to this comment, however, the following specific AELUP policy relative to airport noise in Zone “1” is reproduced:

### 3.2.3 Noise Impact Zone "1" - High Noise Impact (65 dB CNEL and above)

Noise impact in this zone is sufficient to warrant restrictions on residential uses and to require sound attenuation measures on other uses. The ALUC does not support residential development within the 65 dB CNEL noise contour. All residential units are inconsistent in this area unless it can be shown conclusively that such units are sufficiently sound attenuated for present and projected noise exposures, which shall be the energy sum of all noise impacting the project, so as not to exceed an interior standard of 45 dB CNEL, with an accompanying dedication of an aviation easement for noise to the airport proprietor applicable to single family residences, multi-family residences and mobile homes. Furthermore, all residential units are to be sufficiently indoor oriented so as to preclude noise impingement on outdoor living areas, as defined in Section 1.7.

Noise-sensitive institutional uses such as schools, churches, hospitals, libraries, and other noise-sensitive uses may also be inconsistent in this zone. All noise-sensitive uses are inconsistent in this area unless it can be shown conclusively that such units are sufficiently sound attenuated for present and projected noise exposures, which shall be the energy sum of all noise impacting the project, so as not to exceed an interior standard of 45 dB CNEL, and may require the dedication of an aviation easement for noise to the airport proprietor. Commercial, industrial, and recreational uses may be acceptable in this zone providing that commercial and industrial structures are sufficiently sound attenuated to allow normal work activities to be conducted. Said structures shall be sound attenuated against the combined input of all present and projected exterior noise to meet the following criteria:

- Typical Use Level L (eq)\*(12)\*\*
- Private office1, church sanctuary, board room, conference room, etc. 45 dB(A)
- General office2, reception, clerical etc. 50 dB(A)
- Bank lobby, retail store, restaurant, typing pool, etc. 55 dB(A)
- Manufacturing, kitchen, warehousing, etc. 65 dB(A)

\* L(eq) is the equivalent energy noise level for a specified time period in dB(A).

\*\* Measured from 7:00 a.m. to 7:00 p.m. or other appropriate, approved time period.

The proposed land use amendment, including the Saunders Properties, would comply with this AELUP policy.

A4-3 The Draft SEIR describes Federal Aviation Regulation (FAR) Part 77 height restrictions relative to both the Imaginary Surfaces aeronautical obstruction area and FAR Part 77

## 2. Response to Comments

notification requirements for proposed buildings that would penetrate the 100:1 Notification Surface (Section 5.5, *Hazards and Hazardous Materials*, page 5.5-5). In response to this comment, to more thoroughly disclose FAR 77 requirements, this discussion has been supplemented in Section 3.2, *Revisions to the Draft SEIR*, and a copy of the 100:1 Notification Area map is provided in Section 3.3., *Revised Figures*. Height limits for each of the proposed land use change areas are addressed in Tables 5.5-9 and 5.5-10, with a more detailed description for Airport Area properties on page 5.5-36. Figure 5.5-6, *Height Restrictions Over Saunders Properties*, details the various height restrictions over this parcel.

The recommendation to edit Land Use Element Goal LU 6.15.3 is a request to change the project and is not related to the environmental analysis or CEQA requirements for the Draft SEIR. The suggested revision is not necessary in that the issues raised are addressed in the other Elements of the General Plan.


- A4-4 The Draft SEIR details both the safety zones and the noise contours and related restrictions relative to the Saunders Properties. Section 5.5, *Hazards and Hazardous Materials*, describes the land use restrictions for Safety Zone 3 and concludes that, for consistency with the AELUP, development of residential units for the Saunders Properties would be limited to the Safety Zone 6 portion of this property (see page 5.5-33, 34). Draft SEIR Section 5.8, *Noise*, details the noise contour restrictions and concludes that AELUP policies do not allow residential uses within Noise Impact Zone “1”, and General Plan Policy N. 3.2 requires that residential development in the Airport Area be located outside of the 65 dBA CNEL noise contour as shown in the 1985 JWA Master Plan. The Draft SEIR also describes the requirements that interior noise levels for residential development within Noise Zone “2” (65 dBA CNEL) must be attenuated to 45 dBA CNEL or less. Pursuant to the existing requirements, therefore, residential development would be limited to the easternmost portion of this property within Safety Zone 6 and within Noise Zone “2” (65 dBA CNEL). Edits to Land Use Element Goal LU 6.15.3 are not required to define these restrictions.

The Draft SEIR appropriately addresses land use compatibility issues associated with John Wayne Airport by analyzing AELUP consistency with respect to safety hazards (Section 5.5), land use and planning (Section 5.7), and noise impacts (Section 5.8). The potential environmental impacts associated with the proposed GP LUE Amendment have been addressed as required by CEQA. This commenter’s recommendation that the City consider a new General Plan land use designation and specific zoning development standards for a “John Wayne Airport Area” will be forwarded to decision-makers for consideration.

- A4-5 The City acknowledges ALUC’s preference for the “No Airport Area Land Use Changes Alternative” as described and analyzed in the Draft SEIR, Section 7.0, *Alternatives to the Proposed Project*.

## 2. Response to Comments

LETTER A5 – California Coastal Commission (2 pages)

Apr-30-14 02:28pm From-California Coastal	+5625905084	T-947 P.002/003 F-043
STATE OF CALIFORNIA – NATURAL RESOURCES AGENCY		EDMUND G. BROWN, JR. Governor
<b>CALIFORNIA COASTAL COMMISSION</b>		
South Coast Area Office 200 OceanGate, Suite 1000 Long Beach, CA 90802-4302 (562) 560-5071		
April 30, 2014		
Gregg Ramirez, Senior Planner City of Newport Beach Planning Division 100 Civic Center Drive Newport Beach, CA 92660		
<b>Re: Newport Beach General Plan Land Use Plan Element Amendment Draft Supplemental Environmental Impact Report (SCH# 2013101064)</b>		
Dear Mr. Ramirez,		
<p>Thank you for the opportunity to review the Draft Supplemental Environmental Impact Report for the Newport Beach General Plan Land Use Plan Element Amendment for certain areas of the City, including areas such as Newport Center/Fashion Island and the Airport Area near John Wayne Airport in the City of Newport Beach. According to the Draft Supplemental Environmental Impact Report, the proposed amendment is intended to shape future development within the City and involves the alteration, intensification, and redistribution of land uses in certain areas of the City. The amendment also includes revisions to the Land Use Element goals and policies as they relate to land use changes, in support of recent Neighborhood Revitalization efforts, and, as appropriate, updates/refinements to policies. Subsequent amendments to the Newport Beach Coastal Land Use Plan (CLUP), and Zoning Code and Map will be necessary to reflect the amendment s to the General Plan.</p>		
<p>The General Plan Amendment will subsequently require an amendment to the City's certified Coastal Land Use Plan and any associated future development located within the Coastal Zone in the City of Newport Beach will require a Coastal Development Permit (CDP) from the California Coastal Commission (CCC).</p>		
<p>The following comments address the issue of the proposed site's consistency with the Chapter 3 policies of the California Coastal Act of 1976. The comments contained herein are preliminary and those of Coastal Commission staff only and should not be construed as representing the opinion of the Coastal Commission itself. As described below, the site raises issues related to land use.</p>		
<p>The following are comments by Commission staff on the Draft Supplemental Environmental Impact Report</p>		

A5-1

## 2. Response to Comments

Apr-30-14 02:26pm From-California Coastal

+5625905034

T-947 P.003/003 F-043

Newport Beach General Plan Land Use Plan Element Amendment  
Page 2 of 2

### LAND USE

The General Plan Land Use Element Amendment proposes to decrease development capacity at the Newport Coast Hotel location, which is located within the Newport Coast LCP Plan Area. The amendment would decrease the amount of allowable hotel rooms by 1,001 hotel rooms. The loss of visitor-serving uses is a concern. Would the loss of visitor-serving uses here be offset by allowing an increase of development capacity of visitor-serving uses at another location within the Coastal Zone?

A5-2

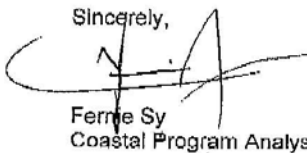
The General Plan Land Use Element Amendment also proposes revisions to the General Plan Land Use Elements goals and policies, including changes to those relating to the Banning Ranch property. Given the scope and complexity of the Banning Ranch property, Commission staff recommends that any project for that site should be considered in the context of a Local Coastal Program review, submitted by the City. This would allow for consideration of significant threshold issues at the planning level, such as the kind, location and intensity of development that would be appropriate for the site given the priorities established under the Coastal Act and the constraints present on the site (e.g. biological resources, geologic hazards, etc.). Additionally, preservation of the site for open space for habitat and public recreational purposes is a high priority under the Coastal Act. Thus, every effort should be made to implement this preferred land use option.

A5-3

Thank you for the opportunity to comment on the Draft Supplemental Environmental Impact Report for the Newport Beach General Plan Land Use Plan Element Amendment. Commission staff request notification of any future activity associated with this site or related sites. Please note, the comments provided herein are preliminary in nature. Additional and more specific comments may be appropriate as it develops into final form and when an application is submitted for a Coastal Land Use Plan Amendment and Coastal Development Permit. Please feel free to contact me at 562-590-5071 with any questions.

A5-4

Sincerely,



Ferne Sy  
Coastal Program Analyst II

Cc: State Clearinghouse



## 2. Response to Comments

### A5. Response to Comments from the California Coastal Commission, Fernie Sy, Coastal Program Analyst II, dated April 30, 2014.

- A5-1 This commenter is correct in noting that the proposed LUE Amendment will require an amendment to the City's certified Coastal Land Use Plan and that future development proposals located within the Coastal Zone in the City will require a Coastal Development Permit (CDP) from the California Coastal Commission. Draft SEIR Section 3.4, *Intended Uses of the EIR*, identifies this requirement and the California Coastal Commission as a responsible agency that will need to certify an amendment to the Coastal Land Use Plan. As detailed under Impact 5.7-1, Draft SEIR Section 5.7-15, *Land Use and Planning*, the proposed LUE Amendment would require an amendment to the City of Newport Beach Coastal Land Use Plan for land use changes to 813 East Balboa Boulevard and Gateway Park.
- A5-2 As described in Draft SEIR Section 3.0, *Project Description*, the proposed LUE Amendment reflects changes in the economy and market, recent legislation and emerging best practices. The proposed amendment does not offset the loss of visitor-serving uses in the Coastal Zone with other uses in the Coastal Zone. While Newport Coast Hotel would be reduced by 1,001 hotel rooms, hotel uses continue to be permitted in other areas of the City. In addition, the proposed amendment includes additional capacity for 125 hotel rooms within Fashion Island (just beyond the Coastal Zone boundary) and an additional 150 hotel rooms within the Airport Area.
- A5-3 Comment acknowledged. This comment does not address the adequacy of the Draft SEIR but recommends revisions to the project description (General Plan Land Use Elements goals and policies) and Local Coastal Program review for the Banning Ranch property. The commenter is mistaken regarding the scope of the currently proposed LUE Amendment which does not propose changes to Banning Ranch. This comment will be forwarded to decision-makers.
- A5-4 Comment acknowledged.

## 2. Response to Comments

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## 2. Response to Comments

### LETTER O1 – Gabrieleno Band of Mission Indians (1 page)

**From:** Andy [mailto:gabrielenoindians@yahoo.com]  
**Sent:** Monday, March 17, 2014 9:13 PM  
**To:** Ramirez, Gregg; Christina Swildall  
**Subject:** Notice of completion and availability of the Draft supplemental environmental impact report (SCH 2013101064) for the New Port Beach General Plan land use element amendment

Dear Gregg Ramirez Senior Planner

This email is in response to your letter dated March 17, 2014 in regards to the above subject project . The proposed project is within a highly culturally sensitive area and in order to protect our resources we're requesting one of our experienced & certified Native American monitors to be on site during all ground disturbances.

O1-1

In all cases, when the NAHC states there are "no records of sacred sites" in the subject area; they always refer the contractors back to the Native American Tribes whose tribal territory the project area is in. This is due to the fact, that the NAHC is only aware of general information on each California NA Tribe they are NOT the "experts" on our Tribe. Our Elder Committee & Tribal Historians are the experts and is the reason why the NAHC will always refer contractors to the local tribes. Please contact our office regarding this project to coordinate a NA monitor to be present. Thank You

O1-2

Sincerely,  
Andy Salas  
Chairman Of Gabrieleno Band Of Mission Indians/Kizh Nation  
Of the Los Angeles Basin, Orange county and the Channel islands.

[www.gabrielenoindians.org](http://www.gabrielenoindians.org)

## 2. Response to Comments

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## 2. Response to Comments

**O1. Response to Comments from the Gabrieleno Band of Mission Indians, Andy Salas, Chairman of Gabrieleno Band of Mission Indians/Kizh Nation of the Los Angeles Basin, Orange County and the Channel Islands, dated March 17, 2014.**

O1-1 The City appreciates the Gabrieleno Band of Mission Indians' response to both the opportunity to request consultation under SB 18 (letter dated 12/5/13) and to the Draft SEIR Notice of Availability (response dated 3/17/14, comment letter O1). As described in the Draft SEIR, the City of Newport Beach City Council has established "Archaeological Guidelines (K-5)" for projects that may impact previously undisturbed grounds. These guidelines ensure that if cultural resources are found, the developer would be required to preserve any significant archaeological resources and mitigate any impacts. The following General Plan Policies, as reproduced in Draft SEIR Section 5.3.4, *Relevant General Plan Policies*, include provisions for onsite monitoring and participation by Native American tribes:

**HR 2.2 – Grading and Excavation Activities** "...Require a qualified paleontologist/archaeologist to monitor all grading and/or excavation where there is a potential to affect cultural, archaeological or paleontological resources. If these resources are found, the applicant shall implement the recommendations of the paleontologist/archaeologist, subject to the approval of the City Planning Department.

**HR 2.3 – Cultural Organizations** – Notify cultural organization, including Native American organizations of proposed developments that have the potential to adversely impact cultural resources. Allow representatives of such groups to monitor grading and/or excavation of development sites.

Mr. Salas's cultural sensitivity concerns are acknowledged, and he will continue to be notified pursuant to the General Plan, CEQA, and SB 18 regarding projects that have the potential to disturb Native American tribal resources and sacred sites in the City of Newport Beach.

O1-2 See response to O1-1 above.

## 2. Response to Comments

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## 2. Response to Comments

### LETTER O2 – The Gas Company (1 page)

	1919 S. State College Blvd. Anaheim, CA 92806-6114
	
April 25, 2014 City of Newport Beach 100 Civic Center Dr Newport Beach, CA 92660	
Attn: Gregg Ramirez	
<b>Subject: Environmental Impact Report for Newport Beach General Plan Land Use Element Amendment (PA2013-098); Newport Beach; SCH# 2013101064</b>	
<p>Thank you for providing the opportunity to respond to this E.I.R. Document. We are pleased to inform you that Southern California Gas Company has facilities in the area where the aforementioned project is proposed. Gas service to the project can be provided from an existing gas main located in various locations. The service will be in accordance with the Company's policies and extension rules on file with the California Public Utilities Commission when the contractual arrangements are made.</p>	
<p>This letter is not a contractual commitment to serve the proposed project but is only provided as an informational service. The availability of natural gas service is based upon conditions of gas supply and regulatory agencies. As a Public Utility, Southern California Gas Company is under the jurisdiction of the California Public Utilities Commission. Our ability to serve can also be affected by actions of federal regulatory agencies. Should these agencies take any action, which affect gas supply or the conditions under which service is available, gas service will be provided in accordance with the revised conditions.</p>	O2-1
<p>This letter is also provided without considering any conditions or non-utility laws and regulations (such as environmental regulations), which could affect construction of a main and/or service line extension (i.e., if hazardous wastes were encountered in the process of installing the line). The regulations can only be determined around the time contractual arrangements are made and construction has begun.</p>	
<p>Estimates of gas usage for residential and non-residential projects are developed on an individual basis and are obtained from the Commercial-Industrial/Residential Market Services Staff by calling (800) 427-2000 (Commercial/Industrial Customers) (800) 427-2200 (Residential Customers). We have developed several programs, which are available upon request to provide assistance in selecting the most energy efficient appliances or systems for a particular project. If you desire further information on any of our energy conservation programs, please contact this office for assistance.</p>	
<p>Sincerely,</p>  <p>Armando Torrez Technical Services Supervisor Orange Coast Region- Anaheim</p>	
<p>AT:ps EIR.doc</p>	

## 2. Response to Comments

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## 2. Response to Comments

### **O2. Response to Comments from The Gas Company, Armando Torrez, Technical Services Supervisor, dated April 25, 2014.**

- O2-1 The comment acknowledges that The Gas Company has facilities in the project area, and gas service can be provided to the proposed project. The comment letter is not a contractual commitment to serve the proposed project, but is provided only as an information service. Comment is acknowledged and will be forwarded to the appropriate City of Newport Beach decision makers for their review and consideration.

## 2. Response to Comments

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## 2. Response to Comments

LETTER O3A – Starpointe Ventures (4 pages)

\*

**STARPOINTE  
VENTURES**

April 28, 2014

Mr. Gregg Ramirez  
City of Newport Beach  
100 Civic Center Drive  
Newport Beach, CA 92660

**Re: Comments re Newport Beach Draft SEIR**

Dear Mr. Ramirez:

This letter shall serve the official comments on behalf of property owner John Saunders on the Draft SEIR which was released on March 17, 2014. This letter incorporates, by reference, all comments made orally at the hearings and meetings from 2013 through 2014. We also reserve the right to provide additional comments regarding the adequacy of the Draft SEIR as the process moves through the Planning Commission and City Council hearings.

Intro

To summarize this letter, the DSEIR is adequate and should be certified with respect to the Project ONLY. The Project Alternative impacts are nearly the same and is not truly a studied alternative. The Project Alternative cannot be supported by the record.

O3A-1

**Procedural Background**

In May 2013, the City initiated an amendment to the Land Use Element “to review its effectiveness in achieving the community’s vision and update it to reflect legislation, emerging best practices, and changing economic markets since the General Plan was adopted.” (April 2014 Progress Report).

With oversight of the Land Use Element Amendment Advisory Committee (LUEAAC) beginning in July 2013, a “limited number of targeted and strategic changes have been recommended.” These policy, land use, and development capacity amendments were recommended by the LUEAAC to be studied in the environmental document for the Project.

O3A-2

From July 2013 through February 2014, the LUEAAC held 11 meetings. At each of these meetings, our team provided testimony in support of the increase of intensity at the project known in the DSEIR as the “Saunders Properties.”

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## 2. Response to Comments

The final recommendation of the Committee to the City Council in August 2013 was to include the Saunders project in the DSEIR. Several other wholly unrelated projects were also recommended for inclusion in the Study.

In September of 2013, at the City Council Study Session, the Council directed Staff to study the Saunders project.

O3A-2  
cont'd

The DSEIR did indeed study the Saunders project, among others, and found no significant unavoidable impacts with the project included attributable to the Saunders project. This fact alone allows the Planning Commission and the City Council to certify the DSEIR with the Saunders project included, whether other airport area projects are included or not.

### Current Entitlement

The "Saunders Properties" consist of approximately 16 acres of land between Campus Drive, MacArthur Blvd., and an imaginary extension of Corinthian Way between those two streets. The parcels are currently designated as Airport Office and Supporting Uses (AO). The current buildings on the site are approximately 40 years old and represent an important opportunity for the City of Newport Beach to create a "gateway" to the City by creating a mixed-use project which will take benefits from all of the cutting edge development and planning concepts.

The proposed change being studied in the General Plan Update is an increase of 238,077 square feet of office as well as the addition of 329 dwelling units of apartments of 3-5 stories. The designation would be amended to Mixed Use Horizontal (MU-H2) with a total capacity of 545,000 square feet of office and 329 dwelling units. Note\* the current uses include auto rental lots which are currently allowed under AO, but not enumerated under MU-H2. Should this General Plan Amendment proceed, the existing uses should be allowed to continue under the mixed-use zoning.

O3A-3

### The DSEIR

Most important to the analysis of the DSEIR is the fact that the DSEIR WITH THE SAUNDERS PROPERTIES INCLUDED CREATES NO SIGNIFICANT UNAVOIDABLE IMPACTS CAUSED BY THE SAUNDERS PROJECT. On this basis alone, the Planning Commission and City Council should certify the SEIR WITH THE SAUNDERS PROPERTIES included.

O3A-4

**Flawed Trip Analysis.** The DSEIR studied the Saunders Properties as 1-2-story apartments. The proposal for the Saunders Properties has always been for multifamily over 2-stories, this falling in the "Apartment (High-Rise)" category and driving a lower generation rate in the traffic study. This error must be fixed prior to certification of the DSEIR and the findings relative to the Project Alternative should be clearly stated to be OVERSTATED A) by nearly 25% for the residential uses or B) by approximately 9% for the total additional uses with regard to the Saunders Properties. The Planning Commission and City Council must be advised of this error.

O3A-5

## 2. Response to Comments

**Flawed Project List.** Additionally, some of the proposed projects studied in the DSEIR are not moving forward at this time. It is erroneous in both the Project and Project Alternative Analysis to include proposals which are no longer pending as they create the appearance of an impact which does not exist. City Staff was aware of the withdrawal of at least one of these projects and SHOULD have run an analysis without it included in both the Project and Project Alternative analysis. The argument that there was not enough time to run the project alone is without merit since CEQA sufficiency is not judged based upon an arbitrary timeline to complete a study; a study is either sufficient or not. Further, under CEQA, the full project analysis including the Saunders project is sufficient, therefore, the City Council can elect to approve ANY lesser Project variation, including the full Project, or the Project with the removal of other airport projects. The Planning Commission and City Council must be advised of the status of each of the proposals.

O3A-6

### The Project Alternative

The Project Alternative is the approval of the Base Project without the "Airport Area" proposals. This has carelessly and erroneously been deemed the Environmentally Superior Alternative. This is erroneous for many reasons:

1. No sensitivity analysis has been run on the various Airport proposals to analyze whether any one of them could in fact be environmentally superior.
2. The analysis fails to study the beneficial effects of compact development, smart growth, live-work, greenhouse gas reduction, improvement of the jobs/housing balance, trip capture, trip reductions, etc., which the Saunders Properties would provide.
3. It is arbitrary and capricious to select the airport area projects for exclusion in a City-wide General Plan Update. The City did not run a sensitivity analysis on a proportionate reduction of all of the proposed projects, therefore, cannot argue that this is an environmentally superior alternative. Common sense dictates that a proportionate reduction across the City would cause better traffic disbursement and reduce impacts across the City. Consequently, any support for the Project Alternative is flawed and cannot be supported by the evidence, therefore making the DSEIR inadequate as to the Project Alternative ONLY.

O3A-7

### Technical Memo

Attached hereto and incorporated by reference as if fully set forth herein, please find an additional letter from RBF Consulting regarding the DSEIR.

O3A-8

### Missing Analysis

In addition to the technical issues presented herein, there is an overall inconsistency between the 2006 General Plan and the DSEIR's Project Alternative which cannot be solved. The only way to certify the DSEIR is by approving the Project with the Saunders Properties included. In the 2006 General Plan, there was a goal set forth of creating urban villages in the Airport Area on appropriate parcels. The Saunders Properties represent one of the few areas of the airport area with a common owner and size sufficient to create a true mixed-use

O3A-9

## 2. Response to Comments

project. For the Project Alternative to call for the removal of the Saunders Properties without studying the negative impacts of doing so on the stated goals and objectives and the feasibility of other sites providing housing near employment centers is flawed and insufficient.

O3A-9  
cont'd

There was no analysis of trip capture or trip reduction for the Saunders Properties. Certification of the Project is thus supported, however, certification of the Project Alternative is not because there is insufficient study in the record to support the presumption that it is environmentally superior.

O3A-10

In the 2006 General Plan Update, there were approximately 260 additional additive units studied in the airport area. There were also approximately 1,1018 "replacement" units. At a minimum, the DSEIR Project Alternative should have studied the placement of the 260 additive units on the Saunders Properties. This project has been proposed, the LUEAAC directed the analysis of the addition of this project (not as part of multiple projects) and the City Council also directed the study of this project. The DSEIR Project Alternative failed to study this project, it merely removed this project, among others, therefore, does not comply with the direction given by the Committee or Council, namely, to study this project.

O3A-11

The 2006 General Plan EIR contains different and much higher intensities than are being requested today for these properties. The DSEIR Project Alternative is insufficient in that the numbers studied for the baseline as well as the proposed project are totally inconsistent with the 2006 EIR. The only environmentally supportable position is to certify the EIR for the Project with the Saunders Properties included. The current traffic study and appendices has no land use data included to compare.


O3A-12

### Conclusion

We look forward to working with City Staff throughout the hearings on the DSEIR and hope that Staff will support the Project and recognize that the erroneous advice to approve the Project Alternative is not supported by the record. The applicant reserves all legal rights and can and will continue to marshal legal arguments and supplement the record through the upcoming hearings. Please contact us if additional information is necessary.

O3A-13

Very truly yours,



Patrick B. Strader, Esq.  
CEO  
Starpointe Ventures

Enclosures (3)

cc: Mr. John Saunders

## 2. Response to Comments

### **O3.A. Response to Comments from Starpointe Ventures, Patrick B. Strader, Esq., CEO, dated April 28, 2014.**

O3A-1 The commenter's opinion that the Project Alternative cannot be supported by the record is noted. As shown in the statistical comparison of the No Airport Area Land Use Changes Alternative (No Airport Area) and the Proposed Project (Draft SEIR, Table 7-1), however, this alternative would substantially reduce the increase in development intensity (including a 92 percent decrease in the number of units and 136 percent decrease in the amount of commercial square footage) accommodated by the proposed amendment. It would result in a concomitant reduction in environmental impacts, including impacts concluded to be significant and unavoidable for the project as proposed. This alternative meets the requirements for project alternatives as defined under CEQA guidelines Section 15126.6: it would "reasonably attain most of the basic objectives of the project, but would avoid or substantially lessen any significant effects of the project..." It would lessen all of the significant environmental impacts associated with the project as proposed (population, GHG emissions, and construction-vibration impacts, freeway ramp and mainline impacts) and would eliminate the significant impact to one freeway ramp. Therefore, the Draft SEIR appropriately included this alternative and the SEIR is consistent with the requirements of CEQA.

O3A-2 The commenter is correct that the Draft SEIR did not specifically determine that any significant impacts were attributable to the proposed land use changes for the Saunders Properties. As summarized in Response O3A-1, however, the environmental analysis of the No Airport Area alternative (which analyzed all airport area land use changes in aggregate) did eliminate a significant impact to one freeway ramp in comparison to the proposed project. Since the Saunders Properties traffic impacts were not analyzed separately from the Airport Area land use, it is not known whether elimination of the proposed Saunders Properties changes alone (or of any combination of the airport change parcels) would eliminate this significant impact.

The certification of the EIR would include the entire analysis within the Final SEIR, which include the Draft SEIR. Per CEQA (Guidelines Section 15090), when a lead agency "certifies" the Final EIR they are certifying that:

1. The final EIR has been completed in compliance with CEQA.
2. The final EIR was presented to the decision-making body of the lead agency, and that the decision-making body reviewed and considered the information contained in the final EIR prior to approving the project.
3. The final EIR reflects the lead agency's independent judgment and analysis.

O3A-3 The commenter has correctly described the proposed change for the Saunders Properties as included in the proposed LUE Amendment. Existing uses currently

## 2. Response to Comments

allowed by right or by use permit by the current general plan and implementing zoning district, but not allowed by a new general plan designation and implementing zoning district would be subject to the non-conforming use regulations and standards in Title 20 of the Newport Beach Municipal Code (Zoning Code).

O3A-4 Please refer to Response O3A-2. Since an analysis of the Saunders Properties exclusive of other land use changes was not conducted, it is not known whether the proposed changes to Saunders Properties would independently result in significant, unavoidable impacts.

O3A-5 High-rise apartments are a special apartment use, and the three- to four-story apartments proposed on the Saunders Properties (as stated in comment O3B-1) would not qualify as high-rise apartments. As defined by ITE's *Trip Generation* (7th edition), high-rise apartments have more than 10 floors and typically include one or two elevators. Though the NBTM trip rates do not correlate directly to ITE trip rates, the reduction in trip generation associated with high-rise apartments (in comparison to general apartments) is intended to provide a similar relationship. The trip analysis is appropriate as included in the Traffic Study.

O3A-6 The Draft SEIR analyzes the proposed LUE Amendment described in Chapter 3.0, *Project Description*. As shown in Table 3-1, *Proposed Land Use Changes*, one proposed land use change, No. 16, Promontory Point Apartments, consisted of an increase in 50 residential units, but was eliminated between the Notice of Preparation and preparation of the Draft SEIR. The Draft SEIR analysis does not reflect impacts associated with land use changes that are not proposed.

O3A-7 Following is a response by the numbered reasons listed in the comment:

1. As explained in Response O3A-1, the No Airport Alternative is an appropriate EIR project alternative for the proposed LUE Amendment. The analysis of a broader land use alternative (eliminating all proposed changes in the airport area) is particularly appropriate for a program-level EIR such as the General Plan LUE Amendment SEIR. Program-level EIRs by definition address larger projects and appropriately consider broad policy and program wide impacts and mitigation (see CEQA Guidelines Section 15168). A sensitivity analysis of individual parcels is neither required for the SEIR nor logical. Additionally, since elimination of *all* of the proposed airport area land use changes (all of which intensify land uses) did not eliminate the significant, unavoidable impacts of the proposed project (with the exception of traffic operation at one freeway ramp), it can be concluded that elimination of any combination of those proposed changes would also not eliminate significant, unavoidable impacts. The proposed No Airport Alternative, therefore, is accurately concluded to be the Environmentally Superior Alternative.



## 2. Response to Comments

2. The Draft SEIR does address some of the project benefits noted in this comment (reduced per-capita VMT [reduced trip lengths], improved jobs/housing balance, etc.). Moreover, the Draft SEIR meets the requirements for a SEIR, and an evaluation of the beneficial project impacts is not required. Pursuant to CEQA Guidelines Section 15126.6, the alternatives environmental analysis (and the selection of the “environmentally superior alternative”) focuses on the potential to reduce or eliminate the significant effects of the project as proposed.

3. The rationale for selecting the No Airport Area alternative for analysis is included in Draft SEIR Section 7.3, *No Airport Area land Use Changes Alternative*, pages 7-9, 10). As stated, in addition to substantially reducing the overall land use intensity changes proposed, “avoiding intensification in this subarea has the potential to reduce or eliminate the significant traffic impacts related to freeways proximate to this subarea as well as cumulative impacts associated with the Airport Settlement Agreement...” The City’s traffic engineer and consulting traffic engineer concurred with the selection of this alternative and its potential to reduce traffic impacts relative to the proposed project.

O3A-8 The response to the Technical Memo is included in this Final SEIR under Letter O3B.

O3A-9 As noted in Response O3A-2, certification of an EIR is not directly related to “approval” of a project. The Lead Agency can certify the EIR (basically concluding that they have reviewed and considered the information in the EIR, the EIR is compliant with CEQA, and that the Final EIR reflects the lead agency’s independent judgment and analysis) without approving the subject project or one of the alternatives analyzed in an EIR. A lead agency may adopt a proposed project while also rejecting alternatives considered in the EIR for being infeasible due to economic, legal, technical or other reasons. Also, as explained in Response O3A-7, the project alternative (No Airport Area) is described and evaluated at the appropriate level of detail for a program EIR such as the subject General Plan–level EIR. It is not necessary to study the Saunders Properties in additional detail or the feasibility of other sites to provide housing near employment.

O3A-10 The Newport Beach Traffic Model (NBTM), which was used in the analysis, uses the same procedures as the Sub-Regional Orange County Transportation Analysis Model (OCTAM). NBTM relies on regional model estimates of trip generation, trip distribution, and mode choice.

Specific factors have also been developed for high-rise apartments, mixed-use (residential over retail), and certain Newport Center uses. For generalized modeling purposes, the NBTM procedures include capture of local trips (i.e., complementary uses such as retail and residential or office uses that are in close proximity interact naturally). The specialized factors have been developed in specific instances where uses are mixed

## 2. Response to Comments

within a single building or within immediate walking distance of a regional commercial center.

Based on research presented in the TIA supporting the 2006 General Plan Update, 10 percent is a conservative reduction in trip generation for both residential and commercial components of the proposed mixed-use developments. In the Airport Area, the 20 percent high-rise-apartment reduction has been applied, with no accompanying reduction for mixed use. High-rise apartments are a special apartment use. As defined by ITE's *Trip Generation* (7th edition), high-rise apartments have more than 10 floors and typically include one or two elevators.

Additional trip generation analysis of individual development projects could possibly be appropriate during a TPO traffic study on a project-specific basis (to be determined in coordination with City staff). Internal capture for specific projects is not evaluated as a matter of practice on a General Plan amendment level study, as here, in order to evaluate projects in a generally consistent manner.

- O3A-11 The rationale for the selection of the No Airport Area alternative for evaluation is provided in Response O3A-7(3). Among other reasons, it was chosen to reduce or eliminate traffic impacts as well as potential cumulative impacts associated with the pending John Wayne Airport Settlement Agreement. The No Airport Alternative and the projects included were based on geographic proximity to John Wayne Airport and the adjacent freeways. Project proponents, including the Saunders properties, can apply for future additional general plan amendments and discretionary approvals, should they so desire, in accordance with City procedures and policies.
- O3A-12 The Draft SEIR updates 2006 General Plan land use designations pursuant to the proposed project and also subsequently approved General Plan Amendments to reflect the potential environmental impacts associated with the net change in land use in comparison to the approved General Plan as amended. The program-level EIR does not include the approval of specific development projects or "requested intensities." Rather, the environmental analysis in the SEIR need only cover the potential effects of the proposed land use amendments, at a programmatic level, as contemplated within the framework of the updated General Plan.
- O3A-13 Comment acknowledged. The Draft SEIR is an objective environmental analysis for which an environmentally superior alternative, other than the No Project Alternative, must be identified pursuant to CEQA. Identification of the environmentally superior alternative does not equal "advice to approve the Project Alternative." Rather, the SEIR merely discloses the impacts of the proposed project and project alternatives for the public and decision-makers. It is up to City staff to issue a recommendation to the decision-makers via the staff report.

## 2. Response to Comments

LETTER O3B – Starpointe Ventures/RBF (5 pages)



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April 30, 2014

Mr. Patrick Strader  
Starpointe Ventures  
19700 Fairchild, Suite 240  
Irvine, CA 92612

**Subject: Newport Beach GPA**

**Subject: Review of the Transportation Section of the Newport Beach GPA EIR and the Associated Traffic Study**

This letter is submitted to comment on the Transportation-related aspects of the General Plan Land Use Element Amendment EIR and its supporting Traffic Study with a particular emphasis on how it relates to the Saunders Properties and the associated request for revised land uses on the subject properties.

Intro

**Comment 1: The trip generation rate used for the apartments on the Saunders Properties site (per Appendix 4.1 and as reflected in the trip generation projections shown in Table 5-1 of the Traffic Study and Table 7-2 of the EIR) should be changed to use trip generation rate 3c to better reflect the type of apartments proposed for the subject properties.**

As indicated in Table 3-1 of the EIR, the proposed change in development capacity for the Saunders Properties would be to allow an additional 238,077 square feet (SF) of Office uses and 329 units (DU's) of apartments. The proposed apartments are intended to be the higher density design (3 to 4 stories) that is typical of products implemented in the Airport Area over the last decade. This is a particularly important factor that affects selection of the trip generation rates used to calculate the trip generation for each increment of the proposed GPA, as presented in Table 4-2 of the GPA Traffic Study. Calculation of the trip generation for the proposed additional development on the Saunders Properties is shown on Page 4.1-13 of Appendix 4.1 to the GPA Traffic Study (Attachment 1) and, it is important to note that the Land Use Code applied to the Apartments is not consistent with the type planned for this site. The trip generation rates for apartments (3b) is typically associated with lower density apartment projects (one to two stories) as opposed to the rates for category 3c, which are typically applied to the higher density projects (as was done in calculating the trip generation for the proposed Lyon Communities GPA request on Page 4.1-15 in this Appendix). Application of the more appropriate trip generation rates is reflected in a revised calculation (Attachment 2) and results in 386 less daily trips from the proposed GPA for the Saunders Properties, than is reflected in the EIR and Traffic Study. This revision should be considered during finalizing the GPA's project description, particularly relative to consideration of the trip neutrality criteria.

O3B-1

## 2. Response to Comments

Mr. Patrick Strader, Starpointe Ventures  
April 30, 2014  
Page 2

**Comment 2:** Information regarding the “Existing” conditions for the Saunders Properties (as shown in Table 3.1 of the EIR and elsewhere in the EIR and supporting studies) needs to be corrected, both relative to the amount of square feet and the type of uses that exist on the subject site. O3B-2

**Comment 3:** It would seem that Table 3-1 should also include information regarding both the amount and type of development allowed under the current General Plan, since that information is the basis of determining additional development/traffic added as a result of the proposed land use changes. Such a column was included in earlier versions of this Table that appeared in the Notice of Preparation and at the Scoping Meeting. O3B-3

**Comment 4:** It would seem that either an additional column should be added to Table 3-1, or that the last column should be divided in order to present both: 1) the amount of change from existing conditions and 2) the amount of change from allowable development under the current General Plan. While these amounts may be the same for some of the locations listed in Table 3-1, they would certainly be different in the case of the Saunders Properties. O3B-4

**Comment 5:** It appears that the projected traffic operational characteristics for all intersections within the study area are compatible with the capacity criteria and thresholds of significance established by the Cities and County.

A very significant conclusion regarding the Transportation Analysis of the proposed General Plan Amendment is not evident in the way that both the Executive Summary of the EIR and the Transportation Section are structured. That is that no significant impacts are projected at the study intersections as a result of the proposed Project. This is a very significant conclusion, particularly with inclusion of all proposed projects in the Airport Area. It is particularly important to recognize that at the one intersection projected to experience the most congestion (Jamboree at Michelson); the proposed Project was found to have no measureable negative impact on the intersection's operations. O3B-5

It also seems important to understand that the conclusion that, “it is assumed that impacts at study area intersections would be significant and unavoidable “relative to Impact 5.11-3 regarding the Airport Settlement Agreement is quite conservative. While it is true that no specific information is available regarding potential traffic impacts associated with the Airport Settlement, examination of the GPA's buildout ICU's (with planned improvements) show all but one intersection (Jamboree at Michelson) to be more than 0.03 ICU “points” from the established maximum acceptable operational criteria and, most of those locations are relatively distant from the airport. That is to say, it would require the Airport Settlement Agreement to result in a significant increase in the PM Peak traffic volumes along certain key roadway links for an unacceptable ICU to occur. Therefore, it would seem doubtful that any such significant impact would occur.

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Associated Traffic Study\_04.30.2014.docx

## 2. Response to Comments

Mr. Patrick Strader, Starpointe Ventures  
April 30, 2014  
Page 3


**Comment 6:** Since, as indicated in Table 7-2 of the EIR, the Project Alternative is projected to generate 2,550 daily trips less than the current General Plan, then additional development on the Saunders Properties, as long as the program resulted in less than 2,550 ADT, could be added to the Proposed Alternative land use program while maintaining trip neutrality.

As indicated in Table 7-2 of the EIR, the Project Alternative (where all GPA project requests in the Airport Area were eliminated) is projected to generate 2,550 daily trips less than for land uses in the current General Plan. Therefore, under the definition for trip neutrality that has been established by the City for the GPA process, additional land uses generating up to 2,550 daily trips could be added to those land uses in the Project Alternative while still maintaining trip neutrality. On that basis, three alternate land uses proposals for additional land use on the Saunders Properties have been identified (see Attachment 3). The three potential additional increments of land use were established to demonstrate: 1) a mixture of residential and apartment uses, 2) the maximum amount of residential that could be added and 3) the maximum amount of office uses that could be added (based purely on the basis of maintaining trip neutrality).

O3B-6

Please contact me with any questions regarding this information, or if there is a need for additional information.

Very truly yours,



Mike Erickson  
Senior Associate

## 2. Response to Comments

Table X  
Model Trip Generation

NBTM Land Use Code	NBTM Land Use Description	Quantity	Units	Trips						Daily
				AM Peak Hour			PM Peak Hour			
				In	Out	Total	In	Out	Total	
1a	Res-Low (SFD)-Balboa	0	DU	0	0	0	0	0	0	
1b	Res-Low (SFD)	0	DU	0	0	0	0	0	0	
2a	Res-Medium (SFA)-Balboa	0	DU	0	0	0	0	0	0	
2b	Res-Medium (SFA)	0	DU	0	0	0	0	0	0	
3a	Apartment-Balboa	0	DU	0	0	0	0	0	0	
3b	Apartment	329	DU	39	158	197	118	66	184	2013
3c	Apartment (High-Rise)	0	DU	0	0	0	0	0	0	
3d	Apartment (Res-over-Retail)	0	DU	0	0	0	0	0	0	
3e	Apartment (Mid-Rise Newport Center)	0	DU	0	0	0	0	0	0	
4	Elderly Residential	0	DU	0	0	0	0	0	0	
5a	Mobile Home-Balboa	0	DU	0	0	0	0	0	0	
5b	Mobile Home	0	DU	0	0	0	0	0	0	
6	Motel	0	ROOM	0	0	0	0	0	0	
7	Hotel	0	ROOM	0	0	0	0	0	0	
9	Regional Commercial	0	TSF	0	0	0	0	0	0	
10a	General Commercial	0	TSF	0	0	0	0	0	0	
10b	Comm (Res-over-Retail)	0	TSF	0	0	0	0	0	0	
11	Comm./Recreation	0	ACRE	0	0	0	0	0	0	
13	Restaurant	0	TSF	0	0	0	0	0	0	
15	Fast Food Restaurant	0	TSF	0	0	0	0	0	0	
16	Auto Dealer/Sales	0	TSF	0	0	0	0	0	0	
17	Yacht Club	0	TSF	0	0	0	0	0	0	
18	Health Club	0	TSF	0	0	0	0	0	0	
19	Tennis Club	0	CRT	0	0	0	0	0	0	
20	Marina	0	SLIP	0	0	0	0	0	0	
21	Theater	0	SEAT	0	0	0	0	0	0	
22	Newport Dunes	0	ACRE	0	0	0	0	0	0	
23a	General Office	238.077	TSF	200	62	262	93	155	248	2638
23b	Office (>300K block Newport Center)	0	TSF	0	0	0	0	0	0	
24	Medical/Government Office	0	TSF	0	0	0	0	0	0	
25	R & D	0	TSF	0	0	0	0	0	0	
26	Industrial	0	TSF	0	0	0	0	0	0	
27	Mini-Storage/Warehouse	0	TSF	0	0	0	0	0	0	
28	Pre-School/Day Care	0	TSF	0	0	0	0	0	0	
29	Elementary/Private School	0	STU	0	0	0	0	0	0	
30	Junior/High School	0	STU	0	0	0	0	0	0	
31	Cultural/Learning Center	0	TSF	0	0	0	0	0	0	
32	Library	0	TSF	0	0	0	0	0	0	
33	Post Office	0	TSF	0	0	0	0	0	0	
34	Hospital	0	BEDS	0	0	0	0	0	0	
35	Nursing/Conv. Home	0	BEDS	0	0	0	0	0	0	
36	Church	0	TSF	0	0	0	0	0	0	
37	Youth Ctr/Service	0	TSF	0	0	0	0	0	0	
38	Park	0	ACRE	0	0	0	0	0	0	
39	Regional Park	0	ACRE	0	0	0	0	0	0	
40	Golf Course	0	ACRE	0	0	0	0	0	0	
41	Resort Golf Course	0	ACRE	0	0	0	0	0	0	
Total				239	220	459	211	221	432	4651

U:\Jobs\08100-08500\_08400\084331TripGen\TG-Calc - rev 80613 - Saunders\Final2013.xlsx\TG



## 2. Response to Comments



14725 Alton Parkway  
Irvine, CA 92618-2027  
949.472.3505  
949.472.8373 Fax  
www.rbf.com  
www.mbakercorp.com

**DRAFT**  
**ATTACHMENT 2**  
**Corrected Trip Generation**  
**For The Requested Saunders Properties Project**  
(April 24, 2014)

NBTAM Land Use Category	AM Peak Hour			PM Peak Hour			Daily Trips
	IB	OB	Total	IB	OB	Total	
<b>3c (Apartment-High Rise)</b>							
<b>Trip Rates</b>	0.10	0.38	0.48	0.29	0.16	0.45	4.90
<b>Trips (329 DU's)</b>	<b>33</b>	<b>125</b>	<b>158</b>	<b>96</b>	<b>53</b>	<b>149</b>	<b>1,613</b>
<b>23a (General Office)</b>							
<b>Trip Rates</b>	0.84	0.26	1.10	0.39	0.65	1.04	11.08
<b>Trips (238.077 TSF)</b>	<b>200</b>	<b>62</b>	<b>262</b>	<b>93</b>	<b>155</b>	<b>248</b>	<b>2,638</b>
<b>Total Trips</b>	<b>233</b>	<b>187</b>	<b>420</b>	<b>189</b>	<b>208</b>	<b>397</b>	<b>4,251</b>

H:\pdata\140306\Admin\Tables\Draft Attachment 2 Corrected Trip Generation\_04.24.2014.docx

## 2. Response to Comments

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## 2. Response to Comments

### **O3B. Response to Comments from Starpointe Ventures, Patrick B. Strader, Esq., CEO, dated April 30, 2014/RBF Mike Erickson, Sr. Associates.**

- O3B-1 High-rise apartments (considered as land use code 3(c) for the NBTM) are a special apartment use, and the three- to four-story Saunders Properties apartments would not qualify as high-rise apartments. As defined by ITE's *Trip Generation* (7th edition), high-rise apartments have more than 10 floors and typically include one or two elevators. Though the NBTM trip rates do not correlate directly to ITE trip rates, the reduction in trip generation associated with high-rise apartments (in comparison to general apartments) is intended to provide a similar relationship. The trip analysis (3(b) for Apartment uses) in the Traffic Study is appropriate.
- O3B-2 This comment does not provide specific information regarding square footage. Table 3-1 correctly reflects the City's information regarding existing square footage for the Saunders Properties. Table 3-1 has been revised to add the existing auto rental lot use. The updated table is in Section 3.2, *Draft SEIR Revisions in Response to Written Comments*.
- O3B-3 Table 3-1, *Proposed Land Use Changes*, does include the existing 2006 General Plan designation and allowable uses for the majority of the properties. This information was erroneously excluded for Property Location No. 4. This correction has been made in the table, as included in Section 3.2, *Draft SEIR Revisions in Response to Written Comments*. Also note that the information is correctly reflected in the Draft SEIR, Appendix A, Initial Study (Table 1, *Proposed Land Use*)
- O3B-4 As described in Draft SEIR Section 1.2.1, *Type and Purpose of This Draft EIR*, the subject EIR is a Supplemental EIR. The purpose of the SEIR is to inform decision makers and the public whether the proposed project, compared to the 2006 General Plan, would result in any new significant impacts or an increase in the severity of significant impacts previously identified for the 2006 General Plan. The 2006 General Plan (not existing ground conditions) is the "baseline" for the analysis in the Draft SEIR to evaluate the potential incremental impacts of the proposed project.
- O3B-5 Comment acknowledged. In the absence of further information on the Airport Settlement Agreement, a conservative finding of potential impacts is reasonable to assume.
- O3B-6 Note that the Attachment 3 referenced in this comment was not included.


The phrase "trip neutral" was used during the project definition phase to indicate that an increase in calculated average daily trip generation would not result because of proposed land use changes. Increased average daily trip generation / volume may not necessarily increase congestion. The effects are dependent on many other factors, including peaking characteristics of traffic, directional split, even quantity of cross-street traffic. The traffic analysis as documented reflects a series of steps that lead, ultimately, to the real

## 2. Response to Comments

meaning: *How would the system work during peak traffic hours, with the recommended/planned improvements?* The commenter's suggestions of potential optional project alternatives are acknowledged. As indicated at the Planning Commission Study Session (5/22/14), the Draft SEIR traffic analysis encompasses the proposed project, including all of the proposed airport area land use changes as well as the No Airport Area alternative analysis that would eliminate any of the proposed changes in the Airport Area. The analysis included, therefore, includes a range of potential trip generation and impacts for this area. Alternative projects could be defined within this range (e.g., inclusion of some but not all of the land use changes proposed in the LUE) that could be determined to be addressed by this analysis and approved at the City Council's discretion.

## 2. Response to Comments

### LETTER O4 – Banning Ranch Conservancy (2 pages)



**4/30/14**

**To Gregg Ramirez:**

**Subject: Comments on General Plan Land Use Amendments draft EIR**

The 400-acre Banning Ranch, located at the mouth of the Santa Ana River, is the largest parcel of unprotected coastal open space remaining in Orange County. The Banning Ranch Conservancy is a non-profit conservation group with the mission: "The preservation, acquisition, conservation, and management of the entire Banning Ranch as a permanent public open space, park, and coastal nature preserve." We are writing you today to provide comments on draft EIR for the General Plan Land Use Amendments.

**19<sup>th</sup> Street Bridge**

As noted in the section on traffic, OCTA has recently removed the 19<sup>th</sup> St. Bridge from the MPAH and the same bridge will likely be removed from the City's General Plan Circulation Element.

**Bluff Road/W. Coast Highway**

The City plans for an intersection to be constructed at W. Coast Highway and the proposed Bluff Road. The City should not plan for such an intersection. In all likelihood, the entire Banning Ranch will be preserved as open space and Bluff Road will not be constructed. In the unlikely event that there is some development at Banning Ranch, the development will probably be accessed from the existing 17<sup>th</sup> Street entrance or from the existing W. Coast Highway entrance near the City's oil fields (near Cappy's).

Caltrans has previously raised questions about the wisdom of placing a new signalized intersection on W. Coast Highway so close to existing signalized intersection at Superior and W. Coast Highway. In addition, the area proposed for the southernmost extension of Bluff road (the area just north of the planned intersection of W. Coast Highway and the proposed Bluff Road) is federally-declared critical habitat for the listed California Gnatcatcher and has been extensively documented as heavily-used during nesting season. In short, it is highly unlikely that State and Federal agencies would approve the planned intersection at W. Coast Highway and the proposed Bluff Road and the City would be better served not planning on the construction of this intersection.

Officers

Terry Welsh, M.D.  
*President*  
Suzanne Forster  
*Vice-President*  
Deborah Kagan  
*Secretary*  
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Steve Ray  
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Board Members

Mark Tabbert  
Diane Silvers, Ed.D.

Jan Vandersloot, M.D.  
*In Memoriam*

Mailing Address:

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Newport Beach, CA  
92659-6071

(310) 961-7610

[www.banningranchconservancy.org](http://www.banningranchconservancy.org)

Intro

O4-1

O4-2

## 2. Response to Comments

In conclusion, the City should not plan for the construction of neither the 19<sup>th</sup> Street Bridge, nor the intersection at W. Coast Highway and the proposed Bluff Road, when making traffic predictions.

04-3

Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in dark ink, appearing to read "Terry Welsh M.D.", written in a cursive style.

Terry Welsh, M.D.  
President, Banning Ranch Conservancy

[www.banningranchconservancy.org](http://www.banningranchconservancy.org)

## 2. Response to Comments

### **O4. Response to Comments from the Banning Ranch Conservancy, Terry Welsh, M.D., President, dated April 30, 2014.**

- O4-1 Attachment D, *19<sup>th</sup> Street Memo*, of this Final SEIR contains analysis without the 19th Street bridge. Because the 19th Street bridge is included in the current City of Newport Beach General Plan Circulation Element, it is appropriate to include the bridge in the primary analysis.
- O4-2 Bluff Road is included in the current City of Newport Beach General Plan Circulation Element and the Orange County Master Plan of Arterial Highways (MPAH). While an update to the Circulation Element at a later date may evaluate removal of Bluff Road, or portions of Bluff Road (which would necessitate coordinating with OCTA for removal from the MPAH), it is appropriate to include the General Plan–recommended roadway system in the analysis.
- O4-3 See responses to comments O4-1 and O4-2.

## 2. Response to Comments

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## 2. Response to Comments

LETTER O5 – California Cultural Resource Preservation Alliance, Inc. (1 page)



**California Cultural Resource Preservation Alliance, Inc.**

P.O. Box 54132  
Irvine, CA 92619-4132

An alliance of American Indian and scientific communities working for  
the preservation of archaeological sites and other cultural resources.

April 30, 2014

Gregg Ramirez, Senior Planner  
City of Newport Beach Planning Division

Re: Draft Supplemental Environmental Impact Report (SCH# 2013101064 for the Newport Beach Land Use  
Element Amendment

Thank you for the opportunity to comment on the above mentioned DSEIR. Archaeological consultants, Cogstone, Inc., have identified a number of prehistoric and historic properties within the project area that have been recorded. Newport Beach was densely occupied prior to European contact and has a high potential for buried cultural resources. Therefore, we consider any area of ground that has not been disturbed to be culturally sensitive. This includes the ground beneath structures that were constructed prior to 1970 when the California Environmental Quality Act was implemented. We trust that in these cases, the appropriate archaeological investigations would be implemented. The mitigation measures do not give enough attention to preservation of significant archaeological properties. Site evaluations and mitigation measures should take into consideration the cumulative impacts upon and/or destruction of archaeological sites, Native American traditional cultural sites, and traditional cultural landscapes with associated traditional Native American values.

O5-1

State and Federal guidelines, including CEQA, provide that with respect to archaeological sites, preservation thorough avoidance is the preferred treatment. Archaeology is a destructive process and mitigation through data recovery excavations not only result in the destruction of an important part of the Juaneno/Acjachemen and Gabrielino/Tongva cultural patrimony and Orange County history, but it is also labor intensive and expensive. Most importantly, site evaluations and mitigation measures do not take into consideration the destruction of Native American traditional cultural sites and landscapes. We are also concerned that the discovery of archaeological deposits is left up to construction contractors. This may be appropriate in certain circumstances, but the potential for the presence of buried cultural deposits and the need for an archaeological monitor should be identified prior to any ground disturbance by a qualified archaeologist.

O5-2

We request that you continue to keep us informed about the DSEIR. We look forward to the results of any archaeological and cultural investigations and to further participation in the environmental review process. To that end, we reserve our right to comment further in the future.

Sincerely,

Patricia Martz, Ph.D.  
President

## 2. Response to Comments

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## 2. Response to Comments

### **O5. Response to Comments from California Cultural Resource Preservation Alliance, Inc., Patricia Martz, Ph.D. President, dated April 30, 2014.**

O5-1 Development in accordance with the proposed project could involve demolishing and constructing new buildings in place of existing structures built before the CEQA law was implemented in 1970. Any demolition and future grading of areas built prior to 1970 would be required to comply with the City's "Archaeological Guidelines (K-5)." This would ensure that if cultural resources are found underneath existing structures, the new developer would be required to preserve any significant archaeological resources and mitigate any impacts in accordance with CEQA.

As described in the Draft SEIR Section 5.3.1,1, *Regulatory Background*, Senate Bill 18 was signed into law in September 2004 and requires local governments to provide opportunities for involvement of California Native American tribes in the land planning process for the purposed of preserving tribal cultural places (TTCP). This law and process filled a void with respect to considering the potential cumulative impacts upon and/or destruction of archaeological tribal resources. It is mandated for the adoption, revisions, or amendment of a city or county general plan. It involves contacting representatives from any of the tribes that may be affected and details a stringent timeline to provide adequate opportunity for local government. Contrary to this comment, the discovery of archaeological deposits is not "left up to construction contractors." As reproduced in Draft SEIR Section 5.3.4, *Relevant General Plan Policies*, HR 2.2, *Grading and Excavation Activities*, requires a qualified paleontologist/archeologist to monitor all grading and/or excavation where there is potential to affect cultural, archeological, or paleontological resources.

O5-2 See response to O1-1 above.

Policies under the City's General Plan Historical Resources (HR) and Natural Resources (NR) Elements address preservation through avoidance as the prime method of treatment prior to potential mitigation through collection (HR 2.1 and NR 18.1). In addition, proposed Land Use Element Policy 4.3 allows a transfer of development allocations from a property to one or more other properties as a method to manage growth and change while protecting and sustaining Newport Beach's natural settings. One method is to transfer development allocations when the reduced density/intensity on the donor site provides benefits to the City through preservation of a historic building or property or natural landscapes.

Under the City's "Archaeological Guidelines (K-5)," the pre-grade conference is required to ensure that a qualified observer or collector, per the County of Orange list of certified archaeologists/paleontologists, is available to monitor the site during grading operations. The observer shall have adequate authority to institute temporary delays/alterations in grading schedule to allow recovery of cultural materials, if any are

## 2. Response to Comments

discovered, and the grading contractor is required to clearly understand the observer's role and authority.

CCRPA's cultural sensitivity concerns are acknowledged, and they will continue to be notified of the proposed project's environmental process.

## 2. Response to Comments

### LETTER O6 – Still Protecting Our Newport (12 pages)



#### OFFICERS

PRESIDENT  
Marko Popovich

30 April 2014

VICE PRESIDENT  
Elaine Linhoff

Gregg Ramirez  
Senior Planner  
City of Newport Beach

TREASURER  
Dennis Baker

SECRETARY  
Allan Beek

Dear Mr. Ramirez and LUE Committee,

Following are SPON's comments on the Draft Supplemental EIR for the City's proposed General Plan Land Use Element Amendment.

Intro

#### BOARD MEMBERS

Nancy Alston  
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Jeanne Price  
Melinda Seely  
Jack Skinner  
Nancy Skinner  
Jean Watt  
Portia Weiss  
Terry Welsh

Thanks in advance for your consideration.

Sincerely,

Marko Popovich  
SPON President

Submitted by Email

STOP POLLUTING OUR NEWPORT (SPON) is a 501.c.3 non-profit public education organization working to protect and preserve the residential and environmental qualities of Newport Beach.

PO Box 102 | Balboa Island, CA 92662  
[www.SPON-NewportBeach.org](http://www.SPON-NewportBeach.org) | [Info@SPON-NewportBeach.org](mailto:Info@SPON-NewportBeach.org)

## 2. Response to Comments



The proposed project is the amendment of the Land Use Element of the Newport Beach General Plan. Land use designations for two sites would be changed. An additional seventeen sites would experience changes in permitted levels of development; permitted development on up to eight sites would be reduced, while permitted development on up to nine sites would be increased. The amendments would result in a net increase of 1,729 dwelling units, 493,677 square feet of office space, 71,110 square feet of general commercial space, an increase in seventy-two students in a private school and a decrease in 701 hotel rooms.

Intro  
cont'd

**The EIR must include analyses based on existing physical conditions.**

As stated in the DSEIR (p. 2-2):

The 2006 General Plan is the "baseline" for the analysis in this Draft SEIR and was used in preparing the Initial Study to evaluate the potential incremental impacts of the proposed project.

In accordance with Section 15125 (a) of the Guidelines for the Implementation of the California Environmental Quality Act (CEQA)),

"An EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published, or if no notice of preparation is published, at the time environmental analysis is commenced, from both a local and regional perspective. This environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant."

O6-1

As stated in Section 15125(e):

Where a proposed project is compared with an adopted plan, the analysis shall examine the existing physical conditions at the time the notice of preparation is published, or if no notice of preparation is published, at the time environmental analysis is commenced as well as the potential future conditions discussed in the plan.

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## 2. Response to Comments



In *Environmental Planning And Information Council of Western El Dorado County, Inc v. County of El Dorado* (3<sup>rd</sup> Dist. 1982; 131 Cal.App.3d 350, 182 Cal.Rptr. 317), the court held that a comparison of development permitted under the amended general plan to development permitted under the pre-existing general plan was inappropriate and that a baseline of existing physical conditions was appropriate. The court stated "The comparisons utilized in the EIRs can only mislead the public as to the reality of the impacts and subvert full consideration of the actual environmental impacts which would result."

O6-1  
cont'd

Similarly *Christward Ministry v. Superior Court* ( 4<sup>th</sup> Dist. 1986; 184 Cal.App.3d 180) states:

In assessing the impact of the amendment, the local agency must examine the potential impact of the amendment on the existing physical environment; a comparison between the proposed amendment and the existing general plan is insufficient.

The California Supreme Court has held that there is some leeway in selection of a baseline for environmental analysis and "an agency preparing an EIR does have discretion to omit an analysis of the project's significant impacts on existing environmental conditions and substitute a baseline consisting of environmental conditions projected to exist in the future, the agency must justify its decision by showing an existing conditions analysis would be misleading or without informational value." (*Neighbors for Smart Rail v. Exposition Metro Line Construction Authority*; 2013, 57 Cal. 4th 439; 304 P.3d 499; 160 Cal. Rptr. 3d 1)

The court noted that under unusual conditions "an agency may forego analysis of a project's impacts on existing environmental conditions if such an analysis would be uninformative or misleading to decision makers and the public" (*Neighbors for Smart Rail v. Exposition Metro Line Construction Authority*; 2013, 57 Cal. 4th 439; 304 P.3d 499; 160 Cal. Rptr. 3d 1). The court cited as an example a case where an existing factory would be emitting certain pollutants versus a new, larger factory also emitting pollutants in the future would neglect the anticipated reduction in pollutants from the existing factory due to the enforcement of new regulations already adopted. To compare a larger future factory operating under future rules to an existing factory operating under existing rules would be misleading to those evaluating the potentially expanded facility.

The Supreme Court concluded that in most cases, however, use of a baseline consisting of existing physical conditions is most informative, stating:

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## 2. Response to Comments



...use of existing conditions as a baseline makes the analysis more accessible to decision makers and especially to members of the public, who may be familiar with the existing environment but not technically equipped to assess a projection into the distant future. As an amicus curiae observes, "[a]nyone can review an EIR's discussion of current environmental conditions and determine whether [it] comports with that person's knowledge and experience of the world." But "[i]n a hypothetical future world, the environment is what the statisticians say it is." ... an agency must not create unwarranted barriers to public understanding of the EIR by unnecessarily substituting a baseline of projected future conditions for one based on actual existing conditions.

(*Neighbors for Smart Rail v. Exposition Metro Line Construction Authority*; 2013, 57 Cal. 4th 439; 304 P.3d 499; 160 Cal. Rptr. 3d 1)

O6-1  
cont'd

As stated in the DSEIR (p. 2-2):

The 2006 General Plan is the "baseline" for the analysis in this Draft SEIR and was used in preparing the Initial Study to evaluate the potential incremental impacts of the proposed project.

The document is a Draft Supplemental Environmental Impact Report. Section 15162 of the CEQA Guidelines provide that:

(a) When an EIR has been certified or a negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:

- (1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- (2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental

O6-2

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## 2. Response to Comments



effects or a substantial increase in the severity of previously identified significant effects; or

(3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:

(A) The project will have or                   ore significant effects not discussed in the previous EIR or negative declaration,

(B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;

(C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or

(D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

(b) If changes to a project or its circumstances occur or new information becomes available after adoption of a negative declaration, the lead agency shall prepare a subsequent EIR if required under subdivision (a). Otherwise the lead agency shall determine whether to prepare a subsequent negative declaration, an addendum, or no further documentation.

A subsequent EIR is typically a stand-alone document examining a proposed project in the light of existing physical conditions.

As provided under Section 15163

(a) The lead or responsible agency may choose to prepare a supplement to an EIR rather than a subsequent EIR if:

(1) Any of the conditions described in Section 15162 would require the preparation of a subsequent EIR, and

(2) Only minor additions or changes would be necessary to make the previous EIR adequately apply to the project in the changed situation.

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O6-2  
cont'd



## 2. Response to Comments



(b) The supplement to the EIR need contain only the information necessary to make the previous EIR adequate for the project as revised.

By preparing a supplemental EIR, the City asserts that requirements established by the statute and judicial history are of no effect. The City asserts that it may provide a plan to plan analysis which avoids discussion of the proposed projects in light of existing physical conditions. This is for a collection of projects which would add 1,719 dwelling units and over half a million square feet of commercial/space over that permitted under the existing General Plan at various locations. The DSEIR does not indicate how great a change that is from existing physical conditions.

O6-2  
cont'd

The plan-to-plan comparison tends to minimize perception of the magnitude of impacts due to the proposed project. The DSEIR is somehow attempting to perpetrate the charade that the general plan amendment is merely a tweaking of a previously approved project, and thus in need of only a "supplemental" analysis. Several of the changes on individual sites are substantive enough that they would likely have required individual EIRs if considered as individual projects, for example 238,077 square feet of office commercial space and 329 dwelling units at Site 4A, and 500,000 square feet of regional office space, 50,000 square feet of regional commercial and 500 dwelling units at Site 5. EIRs for projects on each of these sites would have been required to examine existing physical conditions. Carried to its logical extreme, one would have millions of square feet of development approved over the course of decades under a series of mere "supplements" with any baseline reflecting existing physical conditions forgotten in the mists of time.

O6-3

The DSEIR discusses not only increases in previously identified impacts, but includes entirely new areas of investigation. For example, the 2006 EIR did not examine greenhouse gases, while the current document includes this analysis. Thus, the changes are not merely "minor".

For the most part, the only baseline of existing physical conditions is included in an eight-year-old EIR which was itself based on data collected still earlier. The reviewer is deprived of an evaluation of how existing physical conditions would be changed due to the development proposals addressed in the DSEIR, with the exception of traffic for which existing levels of service based on recent trip counts are provided.

O6-4

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## 2. Response to Comments



The analysis of greenhouse gases does provide a summary of existing greenhouse gas emissions. Ironically, however, the analysis suffers from the very flaw discussed in *Neighbors for Smart Rail*, comparing emissions due to existing development to emissions from a built-out general plan without noting the change in emissions factors to be applied in the future, creating the misleading impression that general plan build out will cause a reduction in emissions. This becomes obvious when one sees that the DSEIR shows a reduction in greenhouse gases associated with transportation under general plan build out despite an increase in vehicle miles travelled. Greenhouse gases for existing development must be compared using the same emissions factors as greenhouse gases for the additional growth permitted under general plan build out.

O6-4  
cont'd

The use of a plan-to-plan comparison is especially pernicious because the specific, major development which would be permitted for locations such as Sites 4A and 5 could potentially proceed with little or no additional environmental review. If additional review were to occur, it could be limited to such issues as project specific aesthetic impacts with little or no examination of such quality of life issues as traffic, air pollution, and noise.

**The Project Description lacks important information.**

The DSEIR does not identify a project objective. Presumably the objective would be the objective included in the 2006 EIR, but it is not clear how the proposed changes would better fulfill that objective, if at all.

The DSEIR includes a list of sites which would be subject to changes under the proposed amendment. For some sites total development is shown while floor area ratio is shown for others. One has no idea what floor area ratio or density will exist on some sites not what total development will occur on other. For example Site 1 will have a floor area ratio of 0.5 but because no information is provided regarding the area of the site, one has no idea whether that will result in 5,000 square feet of development or 5,000,000.

O6-5

Table 3-1 is confusing and inconsistent. Page 3-9 clearly shows square feet of each type of development permitted under the 2006 general plan, existing development, and the proposed change in allowable development under the proposed GPA. Page 3-10 lists general land use designation but does not quantify development in terms of square feet, dwelling units or other factors except for the proposed difference under the proposed changes for Site 5. Thus, the

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## 2. Response to Comments



magnitude of the change is not clear, whether the proposal represents a ten percent increase or possibly a doubling of development for this area. Page 3-11, though still part of Table 3-1 has different column headings and presents identical data for "Existing" and "Proposed Changes".

O6-5  
cont'd

The project description includes a list of all general plan goals, including goals that will remain the same. However, important changes in policies are buried in the appendix. Some of these could result in positive effects on the environment, such as new policies regarding sustainable development. However, other policy changes could result in environmental impacts. These include:

LU 1.3 Natural Resources. Protect the natural setting that contributes to the character and ~~identify~~ identity of Newport Beach and the sense of place it provides for its residents and visitors. Preserve designated open space resources, beaches, harbor, bays, channels, parks, bluffs, preserves, and estuaries as visual, recreational and habitat resources.

This would limit protection to pre-designated areas. Valuable resources not located in those pre-designated areas could be lost.

LU 1.4 Growth Management. Implement a ~~conservative~~ growth strategy that enhances the quality of life of residents and balances the needs of all constituencies with the preservation of designated open space and natural resources.

This represents a significant departure from the past conservative approach.

O6-6

LU 3.3 Opportunities for Change .Provide opportunities for improved development and enhanced environments for residents in the following districts and corridors, as specified in Policies 6.3.1 through 6.22.7:

...

- John Wayne Airport Area: re-use of underperforming or underutilized commercial, industrial and office properties and development of an urban mixed-use district with resident-serving uses enabling employees to live ~~cohesive residential neighborhoods~~ in proximity to jobs and services.
- Fashion Island/Newport Center: expanded retail and office uses and hotel rooms and development of residential in proximity to jobs and services, ~~while limiting increases in office development~~

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Apparently cohesive neighborhoods are no longer a goal for residential development in the airport area while the emphasis on residential uses for new development at Newport Center is being abandoned. No rationale or analysis of these changes is provided in the DSEIR.

Transfers of development rights would be facilitated under proposed Policy 4.3. Open space to be provided as a result of the transfer need no longer be extraordinary, merely some unquantified, potentially minimal amount in excess of basic requirements.

O6-6  
cont'd

Policy LU 6.2.3 would no longer seek to provide housing affordable to those employed in the city but just to meet Housing Element goals, whether or not those goals include housing affordable for the local work force.

Policy LU 6.2.7 no longer calls for the City to seek legislative changes regarding recovery homes. The policy overview on Page C-24 eliminates preservation of marine uses on the Peninsula as a priority. Instead, the overview calls for a mix of uses and economic vitality.

Policy U 6.14.4 continues to call for taller structures to be concentrated in the northerly portion of Newport Center, but also calls for increased height in the 100 block to accommodate a hotel. It is not clear how this would relate to the traditional limits which existed under the Harbor View Sight Plane.

These are just a few of the many policy changes that could result in impacts on the community such as view impacts, loss of marine uses and the marine ambience of the peninsula, and a generally more urbanized community. These impacts must be addressed as discussed below.

### Aesthetics

O6-7

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## 2. Response to Comments



The discussion of the Airport Area does not indicate whether or not significant aesthetic impacts would occur. While it is recognized that the lack of specific building plans preclude detailed aesthetic analyses, proposed changes in the 100 block of Newport Center must be examined in light of past limitations in height for view preservation purposes. What is the maximum height proposed? How will this affect views from residential areas east of Macarthur?

O6-7  
cont'd

### Air Quality

Table 5.2-8 shows a reduction in vehicle miles travelled per person under the proposed GPA as opposed to the existing general plan. The EIR must present the reasons the specific amount of reduction was selected. Though reductions could occur in a few mixed use areas, any calculated reduction in vehicle miles travelled per person must be limited to areas where mixed uses will actually occur and must be applied even handedly. For example areas already developed or planned for mixed use should not be calculated to include an additional reduction in the future simply because designations for another area have been amended. This is critical inasmuch as even a small increase in VMT per person could increase VOC sufficiently to cause the emissions of VOC under the proposed GPA versus the existing GPS to increase by a significant level, in addition to having a significant impact as considered against existing environmental conditions.

O6-8

### Greenhouse Gases

Conclusions presented in this section are misleading. Tables 5.4-4 and 5.4-5 show greenhouse gas emissions due to transportation as decreasing under build out of either the 2006 plan or the proposed GPA as compared to existing development. However, a review of air quality analyses included in the appendices to the DSEIR clearly show an increase in total vehicle miles travelled under either the 2006 plan or proposed GPA. The reduction in emissions occurs only because the build out scenarios utilize 2035 emissions factors which assume lower emissions per mile travelled than currently occurs. The EIR must provide an accurate, less misleading comparison of emissions

O6-9

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## 2. Response to Comments



under exiting development conditions versus build out conditions based on the same emission factors instead of comparing apples and oranges.

O6-9  
cont'd

### Hazards

While the proposed congregate care facility would not provide medical care, residents of such facilities would typically have physical limitations. It is disingenuous to claim that the facility would have no safety issues and would not include a concentration of residents who would experience difficulty in emergency evacuation. The provision of such a facility in Safety Zone 6 should not be permitted.

O6-10

### Land Use

This section must identify specific policy changes, with changes listed together, not requiring decision makers and the general public to sift through an exhaustive list of policies in the appendices in search of changes. Where changes in land use designations or intensities are proposed, the EIR must present the land area, in acres or square feet, affected by each change, the existing and proposed floor area ratio, and the existing and proposed square footage of development.

O6-11

### Noise

While changes in the roadway noise under the proposed versus existing general plan are not significant, there will clearly be a significant cumulative increase in noise over existing conditions. This must be mitigated.

O6-12

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## 2. Response to Comments



Proposed residential development in the airport area could potentially experience unacceptable levels of noise. Does the City truly wish to encourage airport operations by requiring an aviation easement for such areas (N3.3)?

O6-12  
cont'd

### Public Services

The proposed GPA would result in increased numbers of residents in the airport area. How does the City proposed to meet the recreational needs of those residents? The DSEIR states that park dedication or payment of fees is required of all development under Chapter 19.52 of the Municipal Code. However, the code appears to apply only to residential subdivisions. How will projects that do not involve a subdivision map mitigate impacts on recreation?

O6-13

Increased development will lead to increased traffic congestion. The effect of increased traffic on emergency response must be examined.

### Transportation

While this section presents information for existing levels of service and anticipated LOS, it is difficult to easily assess changes. A table comparing existing conditions with conditions under the proposed GPA should be provided. In any case, a comparison of conditions shown in the various tables shows many more intersection operating at unacceptable levels. The EIR must clearly identify those intersection which will experience a significant cumulative increase in traffic due to changes in existing conditions due to build out under the 2006 plan combined with the proposed GPA.

O6-14

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## 2. Response to Comments

### O6. Response to Comments from Still Protecting Our Newport, Marko Popovich, SPON President, dated April 30, 2014.

- O6-1 This comment cites the CEQA Guidelines requirements to include a description of the physical environmental conditions at the time the notice of preparation is published. The comment also summarizes some CEQA court cases relative to this requirement. The General Plan LUE Amendment Draft SEIR complies with the cited requirements (CEQA Guidelines Section 15125(e). Draft SEIR Section 4.0, *Environmental Setting*, introduces the requirement and includes a description of the regional and local environmental setting. Included is a topical overview of city and surrounding land use, cultural resources, hydrology and water quality, noise, scenic features, public services and utilities, transportation and traffic, and local planning considerations (including Airport Settlement Agreement and UCI's Long Range Development Plan).
- O6-2 This comment details the CEQA Guidelines regarding Subsequent and Supplemental EIRs. This information is also detailed in the Draft SEIR, Section 1.2.1, *Type and Purpose of This Draft EIR*. The commenter concludes that by preparing a supplemental EIR, "... the City asserts that it may provide a plan to plan analysis which avoids discussion of the proposed projects in light of existing physical conditions." This statement is erroneous. As described under *Approach/Definition of Baseline*, the Draft SEIR analyzes the incremental impacts between the approved 2006 General Plan and the 2006 General Plan upon implementation of the proposed amendment to the Land Use Element. Although this can be characterized as a plan-to-plan analysis, it does not avoid the discussion of the incremental impacts on existing conditions. As noted in the referenced section, "The environmental setting of each topical section provides an update of existing conditions and changes in circumstances since certification of the 2006 General Plan EIR. The incremental impact of the General Plan LUE Amendment is assessed relative to any change in existing conditions."
- O6-3 The Draft SEIR clearly discloses and quantifies the extent of the proposed land use changes under the LUE Amendment. Table 3-1, *Proposed Land Use Changes*, details the land use changes and is supported by eight figures (Figure 3-3 through Figure 3-10) identifying the City context and parcel-specific location of the proposed changes. Like the 2006 General Plan Update EIR for which it is a supplement, the subject EIR is a program-level EIR that by definition addresses larger projects and appropriately considers broad policy and program wide impacts and mitigation. Moreover, the Draft SEIR is prepared at a comparable level of detail as the original General Plan EIR. As noted above, the environmental setting section of topical sections reflects updated, existing conditions. For example, the environmental setting section for each of the public services (fire, police, schools, parks, libraries) has been updated to reflect existing conditions. The incremental impact between buildout of the 2006 General Plan and buildout of the LUE Amendment as proposed is assessed relative to the updated, existing conditions information. Similarly, the traffic analysis evaluated the impact of the



## 2. Response to Comments

incremental increase in traffic on the updated roadway network and updated traffic model, which includes General Plan Amendment subsequent to the 2006 General Plan. A list of the General Plan Amendments included in the environmental setting (existing conditions) for the Draft SEIR is provided in Section 3.2, *Draft SEIR Revisions in Response to Written Comments*.

- O6-4 Refer to Response O6-3. The reader has not been deprived of an evaluation of existing physical conditions or the potential impact of the proposed LUE Amendment on these conditions. The incremental impact (plan-to-plan increase) has been assessed relative to updated existing conditions (e.g., this Supplemental EIR need not address the impact of the entitlements approved in the 2006 General Plan).

The commenter is incorrect that the greenhouse gas (GHG) emissions analysis uses different emission factors for the 2006 General Plan and the proposed project. Table 5.4-5 provides a comparison of the 2006 General Plan and the General Plan LUE Amendment (proposed project) using 2035 emissions rates (apples to apples). Overall, the proposed project would result in an increase of 14,531 metric tons of carbon dioxide-equivalent emissions (MTCO<sub>2</sub>e) compared to the 2006 General Plan. Consequently, the commenter is incorrect that the Draft SEIR creates a misleading impression that the proposed project will cause a reduction in emissions.

The commenter is incorrect that the Draft SEIR shows a reduction in GHG emissions despite an increase in vehicle miles traveled (VMT). Table 5.4-5 also shows that the proposed project would result in an increase in 5,680 MTCO<sub>2</sub>e from the transportation sector from an increase in 56,559 daily VMT.

However, it is reasonable to assume that per mile vehicle emissions will be less in 2035 than at present. Vehicles travelling in 2035 will be subject to the then-existing requirements for GHG emissions reductions, including those set forth to ensure compliance with Executive Order S03-05 or any applicable interim policy. For example, the CARB Scoping Plan Proposed First Update discussed California's pioneering zero emission vehicle regulation, which is driving transformation of the state's vehicle fleet. As a result of these measures, there will be more than 1.5 million zero emission vehicles in California by 2025.

- O6-5 EIR project objectives (pursuant to CEQA Guidelines 15124 [b]) in Chapter 3.0, *Project Description*, are used to help lead agencies develop and evaluate a reasonable range of alternatives and to assist in preparing a statement of overriding considerations for significant, unavoidable impacts, if necessary. The context of the proposed LUE Amendment is also considered relative to the project overview/purpose as described under Draft SEIR Section 3.3.2.1.

With the exception of development sites 1 (1526 Placentia Avenue [King's Liquor]) and 2 (813 East Balboa Boulevard), the development capacity for each proposed land use



## 2. Response to Comments

change is quantified. As shown in Figures 3-6 and 3-7, respectively, sites 1 and 2 are small individual parcels. The purpose and description of the land use changes for these parcels is included on page 5.1-16.

The inconsistency in Table 3-1 column headings has been corrected and is included in Section 3.2, *Draft SEIR Revisions in Response to Written Comments*.

- O6-6 As noted by the commenter, Draft SEIR Chapter 3, *Project Description* includes a complete list of the General Plan Update goals. The goals, as listed in Table 3-3, *Proposed Land Use Element Goals* includes proposed revisions in ~~strikeout~~/underlined text. The complete list of updated policies is included in Appendix C of the Draft SEIR, also in ~~strikeout~~/underlined. These proposed revisions are not ‘buried’ in the Appendix. They are included as an Appendix because the policy listing is 46 pages in length. Moreover, updated policies for each environmental impact are listed under the *Relevant General Plan Policies* in each topical section.

The commenter states that changes to specific policies could result in “environmental impacts”. The policy changes being considered and referenced by the commenter are being made to provide clarity in the policy language and/or eliminate wordiness. The commenter continues to interpret policy revisions and identifies impacts to views, marine uses and general ambience of the peninsula and community. The interpretations are not accurate, nor are the interpretations the intent of the revisions. Please see the responses for detailed responses to each impact issue raised.

- O6-7 The Draft SEIR analyzes aesthetic impacts related to scenic vistas and the visual character and appearance of the Airport Area. Given that there are no designated public viewpoints or coastal view roads within or in proximity to the Airport Area, it was determined that no adverse impacts to scenic vistas would occur. The Draft SEIR concluded that the proposed project would alter the visual character and appearance of the Airport Area given that the area consists mainly of research and technology office buildings. However, all airport area properties are subject to height restrictions per the John Wayne Airport Environs Land Use Plan, Federal Aviation Administration regulations, and/or development standards and height limitations established under Planning Community 15 (Koll Center). Thus, development in the Airport Area would alter the existing visual character and appearance, but would not degrade the quality of the area. No significant impact would occur.

Per the City of Newport Beach Municipal Code Section 20.30.060(C)(2)(d), 100 Newport Center Drive is considered a nonresidential, non-shoreline height limit area and has a height limitation of 32 feet (for flat roof) and 37 feet (for sloped roof), or 50 feet (for flat roof) and 55 feet (with sloped roof) with discretionary approval. The Draft SEIR concludes that proposed changes for 100 Newport Center Drive would not have a

## 2. Response to Comments

substantial effect on scenic vistas including the portion of MacArthur Boulevard designated as a coastal view road (see Figure 5.1-1, *Coastal Views*).

O6-8 As identified in Section 5.2, *Air Quality*, the transportation sector emissions were based on the daily vehicle miles traveled (VMT) provided by Urban Crossroads using the Orange County Transportation Authority's (OCTA) regional transportation model. The VMT provided by Urban Crossroads using the regional transportation model (citywide) takes into account the relationship between land uses within the City and Orange County; therefore, it is sensitive to how changes in land uses in the City affect VMT. Table 5.2-8 shows the VMT per service population (residents and employees). This is based on the VMT provided by Urban Crossroads, as described above, divided by the population and employment for the 2006 General Plan and the General Plan LUE Amendment (proposed project).

O6-9 Table 5.4-4 is provided for informational purposes only as part of the environmental setting. Table 5.4-4 shows existing 2013 emissions (based on 2013 emission rates) and does not provide a comparison of emissions with and without the proposed project. Table 5.4-5 provides the comparison of the GHG emissions generated by the 2006 General Plan to the proposed project for the impact analysis of the Draft SEIR.

Table 5.4-5 shows that the General Plan LUE Amendment (proposed project) would result in an increase in 5,680 metric tons of MTCO<sub>2e</sub> from the transportation sector from an increase in 56,559 daily VMT. Table 5.4-5 provides a comparison of the 2006 General Plan and the proposed project using 2035 emissions rates (apples to apples). Overall, the proposed project would result in an increase of 14,531 MTCO<sub>2e</sub> compared to the 2006 General Plan. Consequently, the commenter is incorrect that the Draft SEIR provides a misleading apples-to-oranges comparison of emissions in the Draft SEIR.

O6-10 Per the Airport Land Use Commission (ALUC), Safety Zone 6 allows residential and most nonresidential uses. Prohibited uses include outdoor stadiums and similar uses with very high intensities. Uses that should be avoided include children's schools, large day care centers, hospitals, and nursing homes. Land use compatibilities for the various JWA safety zones are defined by the ALUC.

O6-11 As noted in Response O6-6, the comprehensive list of updated General Plan policies as proposed by the LUE Amendment update is included in Appendix C of the Draft SEIR in ~~strikeout~~/underline format. Applicable policies are also provided at the end of each topical environmental impact section. Table 3-1, *Proposed Land Use Changes* includes 2006 General Plan designations and allowable development, existing development, and proposed designation and increase/decrease intensity change for each land use area. The inconsistency in the table format on page 3-11 of the Draft SEIR (which excludes 'allowable' density information under 2006 General Plan for Map Reference 4) has been

## 2. Response to Comments

corrected. The updated table is included in Section 3.2, *Draft SEIR Revisions in Response to Written Comments*.

O6-12 As described in under Draft SEIR Section 1.2.1, *Type and Purpose of This Draft EIR*, the supplemental EIR appropriately analyzes the incremental impact of the proposed land use changes relative to the approved 2006 General Plan Update. As noted by the commenter, the impacts of this incremental increase in traffic noise are less than significant. The EIR prepared for 2006 General Plan analyzed the impacts of the proposed 2006 land use plan in comparison to existing conditions and concluded that traffic noise impacts for the 2006 General Plan would be significant. Although General Plan policies were identified to reduce this impact, it was determined that impacts could not be mitigated to less than significant. A statement of overriding considerations for this impact was adopted at that time.

O6-13 See response to A1-3.

Future residential developments in the Airport Area would be required to dedicate parkland or pay of in-lieu fees, per Chapter 19.52 of the City's municipal code. Further, the amended Land Use Element (LU) Policy 6.15.10 (Regulatory Plans – Specific to Airport Area [ICDP]) requires a regulatory plan for any residential village developments in the Airport Area to establish a design theme and standards for buildings and site work; plan the location and phasing of buildings, parks, streets, pedestrian ways, infrastructure and other facilities; set forth a strategy to accommodate neighborhood serving commercial uses and other amenities; establish pedestrian and vehicular connections with adjoining land uses; and ensure compatibility with office, industrial, and other nonresidential uses. Thus, any residential development in the Airport Area would be required to meet the same park dedication requirements under the City's Park Dedication Ordinance as development in other areas of Newport Beach.

Adequacy of existing emergency services (i.e., fire protection, medical aid, and police services) is analyzed under Impacts 5.10-1 and 5.10-2 in Section 5.10, *Public Services*, of the Draft SEIR. According to the analysis of existing staffing and equipment and responses from the Newport Beach Fire and Police Departments, the proposed project would not adversely affect emergency services within the City.

O6-14 The purpose of the Draft SEIR is to inform decision makers and the public whether the proposed project, compared to the 2006 General Plan, would result in any new significant impacts or an increase in the severity of significant impacts previously identified for the 2006 General Plan. The 2006 General Plan (not existing ground conditions) is the "baseline" for the analysis in the Draft SEIR to evaluate the potential incremental impacts of the proposed project. Therefore, the comparison of LOS was made between the 2006 General Plan (baseline) and the Project (Land Use Amendment). The comparisons for intersections within the City of Newport Beach and

## 2. Response to Comments

City of Irvine jurisdictions are shown in Tables 5.11-9 (without anticipated intersection improvements) and 5.11-10 (with intersection improvements) in the Draft SEIR. With anticipated improvements, all intersections except for the three identified below would continue to operate at acceptable LOS:

- Superior Avenue at Coast Highway (AM)
- Newport Boulevard (West) at Coast Highway (AM)
- Jamboree Road at Michelson Drive (PM)

However, it should be noted that compared to the 2006 General Plan land use scenario (baseline), the project would not worsen the operation at any of these intersections (see Table 5.11-10). The General Plan LUE Amendment results in the redistribution of peak hour directional traffic movements that do not necessarily degrade roadway system performance in comparison to the 2006 General Plan. There would be no significant impacts with the planned improvements at study-area intersections.

## 2. Response to Comments

LETTER I1 – Barry L. Allen (2 pages)

**BARRY L. ALLEN  
1021 WHITE SAILS WAY  
CORONA DEL MAR, CA 92625**

April 7, 2014

City of Newport Beach  
Attn.: Mr. Greg Ramirez  
Senior Planner  
100 Civic Center Dr.  
Newport Beach, CA 92660

RECEIVED BY  
COMMUNITY  
APR 09 2014  
DEVELOPMENT  
CITY OF NEWPORT BEACH

Re: Comment on the Draft EIR for General Plan Amendment

Gentlepersons:

The traffic analysis is deficient and needs to address several specific items in detail.

To determine the cumulative effect of the General Plan Amendment (GPA) proposal to add 500,000 square feet of new "Regional Office" development, the EIR should clearly address the increase to existing traffic in and around Newport Center, which result from the 2 new office towers (almost 500,000 square feet each) that are currently under construction and soon to be occupied in Newport Center.. These towers have been referred to as the "Pimco Tower" and the "Irvine Company Headquarters Tower."

These 2 towers are located in and around the 500 Block of Newport Center and will clearly have major traffic impacts, particularly at peak hours, on the immediately adjacent roadways: San Joaquin Hills Road, Mac Arthur Blvd., Jamboree Road, Avocado Ave., Pacific Coast Highway, especially through Corona del Mar.

In addition, the EIR should address the cumulative impact of these office towers on the already overcrowded intersections of San Miguel-MacArthur-Avocado and probably many others.

Traffic from this nearly 1 million square feet of office commercial development should be estimated using standard traffic engineering manuals. This information should be presented clearly using simple, straightforward language and format so it can be understood by ordinary citizens because City ordinances, particularly "Green Light" require citizen approval of the GPA proposal to add an additional 500,000 square feet of development in this same area, using the same streets and intersections.

I1-1

## 2. Response to Comments

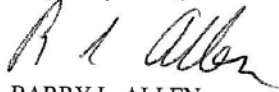
Finally, the EIR should clearly and succinctly address the impact on traffic, air quality, green house gasses, aesthesis and other factors, that will result from the increased densities of the entire GPA proposal in Newport Center which include the hotel project, retail and residential development.

11-2

As you know, if approved by the City Council, this GPA will be placed on the November 2014 ballot for a vote of the Citizens of Newport Beach. It is therefore critically important that the true impact of the traffic generated by the existing but unoccupied development be identified, and the cumulative effects of the GPA proposal in its totality and especially with regard to an additional "Regional Office" development of "500,000 square feet" be clearly identified.

11-3

Very Truly Yours,



BARRY L. ALLEN

Cc: Mayor Hill and Members of the  
Newport Beach City Council

## 2. Response to Comments

### II. Response to Comments from Barry L. Allen, dated April 7, 2014.

I1-1 Currently approved land uses (including those under construction) are included in the background condition, including 2006 General Plan, LUE Amendment, and Project Alternative scenarios. Analysis has been performed and is included in the Draft SEIR, for the immediately adjacent roadways requested at the intersections of:

- Jamboree Rd. / San Joaquin Hills Rd.
- Jamboree Rd. / Santa Barbara Dr.
- Jamboree Rd. / Coast Hwy.
- Santa Cruz Dr. / San Joaquin Hills Rd.
- Santa Rosa Dr. / San Joaquin Hills Rd.
- Newport Ctr. Dr. / Coast Hwy.
- Avocado Av. / San Miguel Dr.
- Avocado Av. / Coast Hwy.
- MacArthur Bl. / San Joaquin Hills Rd.
- MacArthur Bl. / San Miguel Dr.
- MacArthur Bl. / Coast Hwy.
- Spy Glass Hill Rd. / San Miguel Dr.
- San Miguel Dr. / San Joaquin Hills Rd.
- Goldenrod Av. / Coast Hwy.
- Marguerite Av. / San Joaquin Hills Rd.
- Marguerite Av. / Coast Hwy.
- Spy Glass Hill Rd. / San Joaquin Hills Rd.
- Poppy Av. / Coast Hwy.

Trip generation has been estimated based upon the Newport Beach Traffic Model (NBTM) trip generation rates, which approximate the trip generation used in the NBTM. The NBTM was updated in 2013 in support of this Land Use Element Update and has been specifically calibrated for Newport Beach. The NBTM evaluates land use interactions between traffic analysis zones (TAZs), including trip generation, trip distribution, and traffic assignment.

Model trip generation is appropriate for a planning level analysis, while the Institute of Transportation Engineers' *Trip Generation Manual* (9th edition, 2012) might be more appropriately used for individual development project studies (e.g., TPO studies). This would provide greater accuracy at driveways and be useful during documentation of specific, individual projects. Model trip generation is not intended to match ITE trip generation, and is useful in looking at systemwide performance.

## 2. Response to Comments

- I1-2        The Draft SEIR quantifies the impact of the proposed land use changes on traffic, air quality, and greenhouse gases. As described in Response I1-1, the impact of traffic generation associated with the entire LUE Amendment on Newport Center area intersections is detailed in the analysis. Air quality is appropriately addressed relative to the South Coast Air Basin (SoCAB); GHG impacts are global and therefore evaluated with respect to regulatory requirements. The Draft SEIR also provides an assessment of potentially siting uses near pollutant concentration and potential future construction-related air quality and noise impacts that would be more localized. The impact analysis for each of the topical areas is the appropriate level of analysis for a program EIR for a General Plan or General Plan Amendment such as the subject project.
- I1-3        Comment acknowledged. The traffic analysis evaluates the potential cumulative impact of land use development in accordance with the 2006 General Plan as amended since 2006 (see Attachment C, *Post 2006 General Plan Amendments*, of this Final SEIR) in addition to the land use changes currently proposed in the LUE Amendment.



## 2. Response to Comments

LETTER I2 – B. Franciscus (1 pages)

4/10/14

To The City of Newport Beach  
What idiot wrote the N.B. General Plan?  
"Reduction in development capacity  
matrix" What ??? Matrix used several  
times "Matrix" looks up matrix. "Something  
that constitutes the place or point from  
which something else originates"  
The author of this great publication  
should remember the readers are from  
Newport Beach. Who are you trying to impress?  
The Amendment came out to date for the  
April 1st meeting with the LU E A A C ???  
"Airport Area"  
LU 6.15.5X Transfer Development Allocation  
3. ?? on & on —  
Please find someone some  
A Very Upset Key Player —

I2-1

## 2. Response to Comments

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## 2. Response to Comments

### **I2. Response to Comments from B. Franciscus, dated April 10, 2014.**

- I2-1 Comment acknowledged. This comment does not address the adequacy of the Draft SEIR but is related to the project description and will be forwarded to decision-makers.

## 2. Response to Comments

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## 2. Response to Comments

LETTER I3 – Karen H. Clark (1 pages)

**From:** Karen Clark [mailto:karen-clark@cox.net]  
**Sent:** Tuesday, April 22, 2014 11:37 AM  
**To:** Ramirez, Gregg  
**Subject:** comment on Draft SE"IR

I am curious as to why the only alternative considered in the SEIR was to eliminate the new airport area development, and no alternative eliminating the Newport Center development was considered. Can someone explain? For those of us convinced that TIC actually controls the City Council, this fact fits in perfectly with our world view – it's TIC who wants these changes, so of course the development it is seeking would not be eliminated, even theoretically. Certainly no one in Newport really wants more traffic, more pollution and more population that would result from the General Plan Amendment, other than The Irvine Company.

Karen H. Clark  
2701 Ebbtide Rd.  
Corona del Mar

I3-1

## 2. Response to Comments

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## 2. Response to Comments

### I3. Response to Comments from Karen H. Clark, dated April 22, 2014.

- I3-1 The rationale for selecting the No Airport Area alternative for analysis is included in Draft SEIR Section 7.3, *No Airport Area land Use Changes Alternative*, pages 7-9, 7-10). It would substantially reduce overall intensity of land use changes and therefore reduce significant construction-related vibration and greenhouse gases in comparison to the proposed LUE Amendment. In particular, eliminating development in the Airport Area “has the potential to reduce or eliminate the significant traffic impacts related to freeways proximate to this subarea as well as cumulative impacts associated with the Airport Settlement Agreement...” The City’s Traffic Engineer and consulting traffic engineer concurred with the selection of this alternative and its potential to reduce traffic impacts relative to the proposed project.

## 2. Response to Comments

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## 2. Response to Comments

### LETTER I4 – Greg Sullivan (2 pages)

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**From:** Wisneski, Brenda [mailto:BWisneski@newportbeachca.gov]  
**Sent:** Wednesday, April 23, 2014 3:09 PM  
**To:** JoAnn Hadfield  
**Subject:** FW: City of Newport Beach-Land Use Element Advisory Committee (April 1, 2014)

Looks like an EIR comment to me.

---

**From:** Greg Sullivan [mailto:gsullivan@wdland.com]  
**Sent:** Wednesday, April 23, 2014 3:01 PM  
**To:** Wisneski, Brenda  
**Subject:** FW: City of Newport Beach-Land Use Element Advisory Committee (April 1, 2014)

Brenda,

Please make certain below is included in the public record.

Thanks.

Sincerely,  
Greg Sullivan | Senior Land Advisor  
WD LAND  
94 Discovery | Irvine, CA | 92618  
949.789.4555 x 63 | fax: 949.789.4556 | [www.wdland.com](http://www.wdland.com)  
PREFERENCE: NO CALLING

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**From:** Greg Sullivan  
**Sent:** Wednesday, April 23, 2014 2:50 PM  
**To:** 'GRamirez@newportbeachca.gov'  
**Cc:** 'EdSelich@roadrunner.com'; 'RHill@NewportBeachCa.gov'  
**Subject:** City of Newport Beach-Land Use Element Advisory Committee (April 1, 2014)

**RE: NOP - General Plan Land Use Element Amendment (PA2013-098)**  
**1.7 acre parcel at 4699 Jamboree Road & Campus Drive, Newport Beach ("Property")**

To Whom It May Concern:

Respectfully, we again would like to go on the public record to express frustration and concern relating to our above referenced project's treatment in the EIR for the General Plan Update. We have repeatedly asked that the Subject

I4-1

## 2. Response to Comments

Property be considered on its own merits and separately from other properties that have been lumped together in Area 4 (Airport Area), with ours being a "Trip Neutral" Assisted Living/Congregate Care project. At the Public Scoping meeting on November 5, 2013, I publicly expressed my concerns regarding the Map Reference Areas (as outlined below) at which time I was assured that "our Property was in Area 4 for ease of mapping purposes only and we should not be concerned...each project would be considered on its own merits". At the April 1, 2014 LUEAAC meeting, this was clearly not the case with motions to completely eliminate Area 4 from consideration in the Environmental Report. We again object to this treatment and request that each project within the EIR be considered as to its individual impacts and merits. This is clearly being done on the non-Irvine Company properties at 150 Newport Center Drive and 100 Newport Center Drive that have been segregated from the Irvine Company owned properties in nearby Area 5 and also for every other project within the EIR. Why 18 other projects/areas can be considered individually and not the 4 property owners in the Airport Area is incomprehensible. We request that our property be treated individually in a similar manner, as the right way to proceed. It is simply categorically unfair to lump our project in with others that have significantly different impacts to traffic and the environment. Moreover, providing a facility for an aging population in this location could significantly reduce drive times and pollution for Newport Beach area residents that wish their parents to be cared for in a quality project nearby. This use would provide a badly needed service to the community. Additionally, it would redevelop a tired office building and furnish a statement entrance into Newport's Airport Area business corridor in conforming appearance to other projects on Jamboree (again without significant traffic or environmental impacts).

l4-1  
cont'd

l4-2

Thank you in advance for your consideration and I look forward to hearing back from you on this important issue.

Sincerely,  
Greg Sullivan (Lifetime Resident)  
1900 Beryl Lane  
Newport Beach, CA 92660

Sincerely,  
Greg Sullivan | Senior Land Advisor  
WD LAND  
94 Discovery | Irvine, CA | 92618  
949.789.4555 x 63 | fax, 949.789.4556 | [www.wdland.com](http://www.wdland.com)  
PHE advice to ALLIES?

connect with me:



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**From:** Greg Sullivan  
**Sent:** Tuesday, November 12, 2013 5:46 PM  
**To:** [GRamirez@newportbeachca.gov](mailto:GRamirez@newportbeachca.gov)  
**Subject:** Comment Card: November 5, 6:00pm - Newport Beach LUE Amendment Scoping Meeting

Dear Mr. Ramirez,

Per my comments at the last Scoping Meeting, I want to go onto public record to address my concerns that the Programmed EIR is lumping "trip neutral" and trade-off opportunities with projects that significantly impact traffic. While personally I am not against projects that would provide smart development in Newport Beach and increase traffic, I realize that I am in the minority and feel that an overly broad EIR significantly increases the possibility of a Greenlight vote. Therefore, I am requesting that the individual projects that are considered traffic neutral be sectioned separately from those that cause significant impacts in your studies. In particular, it appears as though all projects in the Map Reference area 4 have been lumped together vs. Map Reference 5, 17 & 18 all being addressed separately even though

## 2. Response to Comments

### I4. Response to Comments from Greg Sullivan, dated April 23, 2014.

- I4-1 This comment suggests that the Congregate Care site was not reviewed individually because of how the proposed land use tables were numbered and its inclusion in the No Airport Land Use Changes Alternative. The UAP Companies (Congregate Care) property is called out as No. 4D on Draft SEIR Figure 3-4, *Airport Area Proposed Changes*. All proposed amendments were evaluated equally. The No Airport Area Land Use Changes Alternative was chosen to reduce or eliminate traffic impacts as well as cumulative impacts associated with the pending John Wayne Airport Settlement Agreement. The No Airport Alternative and the projects included were based on geographic proximity to John Wayne Airport and adjacent freeways. Project proponents can apply for general plan amendments and discretionary approval in accordance with City procedures and policies.
- I4-2 Comment acknowledged.

## 2. Response to Comments

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## 2. Response to Comments

LETTER I5A – Andrea Lingle (1 pages)

**From:** Andy Lingle [mailto:andylingle@gmail.com]  
**Sent:** Friday, April 25, 2014 3:32 PM  
**To:** Ramirez, Gregg  
**Subject:** Comment on the General Plan Land Use Element

To: Gregg Ramirez,  
Hello again.

I hope this is the appropriate place for my comment on the Land Use Element. If not, would you kindly send me the proper address?

I've read the pamphlet about the coming General Plan Amendment that was sent to all residents about a month ago. I sent my questions to you and you answered them thoroughly and promptly. Thanks for that.

My comment:

After studying the pamphlet and looking at the draft EIR I am left with one big unanswered question:

I can certainly see how all the proposed Land Use Element changes to the General Plan will be a great benefit to developers, contractors, hotel owners, road builders, and airlines. But, how in the world will it benefit the families in my neighborhood?

Thanks,  
Andrea Lingle

I5A-1

## 2. Response to Comments

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## 2. Response to Comments

### **I5A. Response to Comments from Andrea Lingle, dated April 25, 2014.**

- I5A-1      Comment acknowledged. This comment does not address the adequacy of the Draft SEIR. The comment will be forwarded to decision-makers.

## 2. Response to Comments

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## 2. Response to Comments

LETTER I5B – Andrea Lingle (1 pages)

April 30<sup>th</sup>, 2014

To Gregg Ramirez:

Dear Gregg,

Thank you for your prompt reply to my earlier letter asking some questions that were prompted by the grey mailer describing the General Plan Amendments. There remain some issues about our water supply that I would like to see addressed. Please distribute my comments below and enter them into the administrative record for the General Plan Amendment SEIR:

I have been studying the Hydrology section of the SEIR and so far I have found nothing that addresses whether or not there will be adequate drinking water to supply all the planned new dwelling units, hotels, and businesses during a drought. Note that we have already been asked to cut our water use by 20%.

I5B-1

There is a paragraph about using reclaimed water for irrigation and that's a good thing. There is some information about ground water replenishment and storage, and how we are addressing the issue of sea water intrusion resulting from a dropping water table. But I notice that there is little mention about the adequacy of our drinking water supply. Most importantly, as I sit here on this hot, dry, and windy day in the midst of the worst drought in California's recorded history, there is seemingly no emergency plan in place to address an acute water shortage. Do we have such a plan? Shouldn't it be addressed as part of our General Plan? Should we continue to build without one?

Thank you,  
Andrea Lingle  
2024 Diana Lane  
Newport Beach, CA 92660

## 2. Response to Comments

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## 2. Response to Comments

### **I5B. Response to Comments from Andrea Lingle, dated April 30, 2014.**


- I5B-1 Water supply impacts of the proposed project are discussed in Section 5.12, *Utilities and Service Systems*. As quantified in this section, buildout of LUE Amendment as proposed would increase City water demand from 22,816 acre-feet/year under the 2006 approved General Plan to 23,238 afy, an increase of 422 afy. Local water agencies responsible for serving the City of Newport Beach include the City, Irvine Ranch Water District, and Mesa Consolidated Water District. Each local water agency is responsible for updating their state-mandated urban water management plans every five years and to ensure existing water supplies are available during normal, single dry, and multiple dry water years during a 20-year projection. In addition, local water agencies are required to maintain and implement, when needed, a local water shortage contingency plan during drought conditions. Currently, each respective agency's 2011 urban water management plan indicate 100 percent reliable water supply for normal, single dry, and multiple dry year events from 2015 to 2035.

## 2. Response to Comments

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## 2. Response to Comments

LETTER I6 – Dwight Ryan (1 pages)

<p>Kim Brandt, Community Development Director Gregg Ramirez, Senior Planner City of Newport Beach, Planning Division, Community Development 100 Civic Drive, Newport Beach, CA 92660</p>	<p>April 26, 2014</p>	<p>RECEIVED BY COMMUNITY APR 29 2014 DEVELOPMENT CITY OF NEWPORT BEACH</p>
<p>Dear Gregg and Kim,</p>	<p>Intro</p>	
<p>Thank you very much for your presentation of the proposed General Plan Amendments to the Big Canyon Community Association at our annual meeting March 13<sup>th</sup>. We appreciated your insights.</p>		
<p>I'm sure you observed a very large and vocal group of homeowners. Their concerns are accentuated by the recent construction of two office towers very visible from our neighborhoods. We now understand that there will be conversion of low rise offices to condominiums or rentals near Jamboree and San Joaquin Hills Road.</p>		
<p>Even before occupancy of these projects we see increases in traffic on both MacArthur and on Jamboree, as well as San Joaquin Hills Road. Therefore, further expansion in Newport Center is expected to add to congestion and parking problems.</p>		
<p>To that end, we were pleased to receive the requested traffic study for the proposed General Plan expansion in Newport Center. However, those studies assume three separate areas of new construction. If the plan is approved, it would seem there is an option for still another office tower, within the total space cap, that could be constructed on San Joaquin Hills Road near MacArthur Boulevard. If that is true, this will add to traffic (and parking) congestion.</p>	<p>I6-1</p>	
<p>In addition to the 1000 residents of Big Canyon, there are another 1500 husband/wives who regularly use the Big Canyon Country Club. They will all be impacted by additional building near San Joaquin Hills Road and its intersections at both MacArthur and Jamboree.</p>		
<p>Clarifying that construction of another office tower near San Joaquin Hills Road will not be in the Proposed General Plan will substantially alleviate these concerns. Thank you for your consideration.</p>		
		
<p>Dwight Ryan 11 Lochmoor Lane Newport Beach, CA 92660</p>		

## 2. Response to Comments

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## 2. Response to Comments

### I6. Response to Comments from Dwight Ryan, dated April 26, 2014.

I6-1 Analysis has been performed for the immediately adjacent roadways requested at the intersections of:

- Jamboree Rd. / San Joaquin Hills Rd.
- Jamboree Rd. / Santa Barbara Dr.
- Jamboree Rd. / Coast Hwy.
- Santa Cruz Dr. / San Joaquin Hills Rd.
- Santa Rosa Dr. / San Joaquin Hills Rd.
- MacArthur Bl. / San Joaquin Hills Rd.
- MacArthur Bl. / San Miguel Dr.
- MacArthur Bl. / Coast Hwy.
- San Miguel Dr. / San Joaquin Hills Rd.
- Marguerite Av. / San Joaquin Hills Rd.
- Spy Glass Hill Rd. / San Joaquin Hills Rd.

Based on the results, there are no impacts at these intersections in the Newport Center area as a result of the proposed LUE Amendment. Parking impacts were not analyzed in the Draft SEIR. Per updates to CEQA in 2010, parking is no longer considered an environmental impact and is no longer required to be analyzed in environmental documents. Parking requirements, however, are reviewed by the City prior to project development approval per planning/zoning requirements.

The LUE Amendment would allow the 500,000 square feet of office to be located anywhere within Newport Center. It could be another tower or it could result in smaller buildings throughout the area (additions to existing or new construction). The precise location is to be determined. Zoning code amendments will be required as well as additional CEQA compliance and TPO studies prior to construction.

## 2. Response to Comments

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## 2. Response to Comments

LETTER I7A – Denys H. Oberman (3 pages)

COMMENTS IN RE. DRAFT SEIR( ENVIRONMENTAL IMPACT REPORT) for

PROPOSED AMENDMENTS TO THE CITY OF NEWPORT BEACH GENERAL PLAN  
LAND USE ELEMENT(GPLUE) - April 29,2014

Please distribute these comments and enter into the Public Record.

Firstly, we appreciate the efforts of the Advisory Committee and City staff, as well as members of the public, that have participated in the formation of policy and proposed Plan amendments. Based on review of the draft SEIR, and our knowledge of City demographics and sites, we have the following comments.

Intro

1. It is unclear what is driving the proposed Amendments to the GPLUE. The policy recitals appear to focus on Economic Growth, while largely ignoring the Objectives and Policy of the City's General Plan. While economic growth is a meaningful objective for the City, it does not obviate the equally important objectives of preserving the integrity of neighborhoods and environmental quality that makes Newport Beach vital and attractive.

I7A-1

2. We believe that it is questionable and flawed logic to suggest that the relocation of thousands of Average Daily Vehicle Trips from one site to another is inherently of "neutral" impact. Every site is different: in characteristics, already existing surrounding land uses, and the ability of infrastructure to support additional intensification of use. A relocation of the magnitude proposed is definitely NOT neutral, and needs to be carefully evaluated.

I7A-2

3. On p. 30, Section 5.7, the document states that "Land use and planning...and land use designations...are consistent with those of Local Coastal Plan". The Local Coastal Plans were supposed to have been updated, but we do not find evidence of such a process. Furthermore, there are currently no Specific Plans to address areas with unique natural resource and aesthetic coastal characteristics which the public wishes to preserve---in particular Mariners Mile and Lido Village.

I7A-3

Other Specific Plans for the coastal zones need updating, to assure that there is not over-intensification which the infrastructure cannot accommodate, and which will create irrevocable, adverse impact on the quality of our open space and surroundings.

4. On p. 33, the document identifies but does not address mitigation for adverse impacts associated with additional need for Police protection, Schools, Fire, or other public services( impacts cited 5/10/2, 5/10/3)

I7A-4

5. In section 5/11/1, which addresses Transportation and traffic, the report states that the Project would not impact levels of service for the study area intersection. We are concerned that the magnitude of traffic proposed in the Project will create

I7A-5

## 2. Response to Comments

significant congestion and public safety hazards in areas which have already become increasingly congested, and contribute well beyond the immediate Project site.

17A-5  
cont'd

The City has over the past 3-4 years adopted a pattern of practice which has approved numerous one-off Project developments through multiple "Amendments to the General Plan", all without thoughtful projection of desired mix of land uses, and a Comprehensive Evaluation of Transportation and traffic impacts. What is the true Cumulative Impact of both the currently proposed, and other planned, pending or approved projects on the City's overall Transportation and traffic?

6. In Section 2.3.2, the report identifies "potentially significant areas of adverse impact":

- Aesthetics
- Air quality
- Cultural resources
- Water quality
- Land use and planning
- Water quality
- Noise/vibration
- Population and Housing
- Public Services
- Transportation and traffic
- Utility infrastructure

17A-6

Where are the proposed impacts characterized, and where are the Mitigation measures proposed?

7. On p. 444, the report identifies areas of "Unavoidable, significant adverse impact" associated with the proposed Project:

- Greenhouse gas emissions
- Noise
- Population and housing
- Transportation and traffic

17A-7

Where are the Mitigation Measures -- the City has a duty to characterize and address such impacts.

We appreciate that the City has grown significantly since the 2006 General Plan, and also since the development of coastal Specific Plans. The City's population growth has, per the report, exceeded SCAG population projections for the City by 18%. Growth in not only residential population, but also visitor and commercial base, all has contributed to significant change. If we have already Outgrown our 2006 General Plan, would it not be worthwhile to consider a bona fide Plan Update process----one carefully crafted, that

17A-8

## 2. Response to Comments

addresses our current community characteristics and needs, rather than force through a process which has not adequately considered and balanced economic, residential neighborhood, environmental quality and infrastructure considerations?

17A-8  
cont'd

Thank you .

Denys H. Oberman  
Resident

Cc: Concerned Citizens of Newport Beach, SPON

## 2. Response to Comments

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## 2. Response to Comments

### **I7A. Response to Comments from Denys H. Oberman, dated April 29, 2014.**

I7A-1 The Overview/Purpose of the LUE Amendment is summarized in Draft SEIR Section 3.3.2.1. This comment does not address the adequacy of the Draft SEIR and will be forwarded to decision-makers.

I7A-2 The phrase “trip neutral” was used during the project definition phase to indicate that an overall increase in calculated daily trip generation (ADT) would not result because of proposed land use changes. Increased daily trip generation/volume (ADT) may not necessarily increase congestion. The effects are dependent on many other factors, including peaking characteristics of traffic, directional split, even quantity of cross-street traffic. The analysis documented herein is a series of steps that lead, ultimately, to the real meaning: How does the system work during peak traffic hours, with the recommended/planned improvements?

The TIA carefully evaluated the proposed project effects at 90 study area intersections (64 in Newport Beach and 26 in Irvine), including freeway mainline and ramp analysis and included the following scenarios:

- Existing Conditions
- 2006 General Plan with Existing Lanes
- 2006 General Plan with Recommended Improvements
- General Plan LUE (Proposed Project) with Existing Lanes
- General Plan LUE (Proposed Project) with Recommended Improvements
- General Plan LUE (Project Alternative), limited study

The analysis includes the number of additional trips (average daily traffic or ADT) associated with the intensification, alteration, and redistribution of land uses, and analyzes the daily and peak hour traffic impact of the General Plan LUE Amendment (proposed project) to roadways and study-area intersections.

The General Plan LUE Amendment (proposed project) changes result in the redistribution of peak hour directional traffic movements that do not necessarily degrade roadway system performance in comparison to the 2006 General Plan. Replacing planned business uses with residential causes redistribution of travel patterns that result in decreases on some movements. As an example, residential trip generation involves primarily outgoing travel in the morning and inbound travel in the evening, which is opposite the travel patterns for office uses.

I7A-3 The proposed LUE Amendment will require an amendment to the City’s certified Coastal Land Use Plan, and future development proposals within the Coastal Zone in the City will require a Coastal Development Permit (CDP) from the California Coastal Commission. Consistency with the Orange County Newport Coast Local Coastal

## 2. Response to Comments

Program and City of Newport Beach Coastal Land Use Plan is addressed under Impact 5.7-1, Draft SEIR page 5.7-14. Draft SEIR Section 3.4, *Intended Uses of the EIR*, identifies this requirement and the California Coastal Commission as a responsible agency that will need to certify an amendment to the Coastal Land Use Plan. As detailed under Impact 5.7-1, Draft SEIR Section 5.7, *Land Use and Planning*, the proposed LUE Amendment would not require an amendment to the Orange County Newport Coastal Local Coastal Program that encompasses the Newport Coast Commercial Center and Newport Coast Hotel, but would require an amendment to the City of Newport Beach Coastal Land Use Plan for land use changes to 813 East Balboa Boulevard and Gateway Park.

The comment regarding the need for updating Specific Plans within coastal zones does not address the adequacy of the Draft SEIR and will be forwarded to decision-makers.

I7A-4 Section 5.10, *Public Services*, discusses impacts on fire, police, school, and parks from the proposed project. The analysis for each public service concluded that impacts would be less than significant and no mitigation measures would be required.

I7A-5 The Newport Beach Traffic Model (NBTM) was used to determine potential traffic impacts related to the proposed LUE Amendment. The model has recently been updated to incorporate current land use, socioeconomic factors, trip generation, and network data from a variety of sources, including models from nearby cities. The traffic evaluation is comprehensive and encompasses 2006 General Plan land uses as updated by subsequent General Plan Amendments, as well as the impact of the proposed LUE Amendment. The recently planned, pending, and approved projects that are included in the model are provided in Attachment C of this Final SEIR.

I7A-6 The 12 topical sections listed in Section 2.3.2, *Potentially Significant Areas of Adverse Impact*, are analyzed in detail under separate sections (Sections 5.1 through 5.12) in Chapter 5, *Environmental Analysis*. As outlined in Chapter 5, Sections 5.1 through 5.12 are organized as follows:

- Environmental Setting
- Thresholds of Significance
- Environmental Impacts
- Relevant General Plan Policies
- Existing Regulations
- Level of Significance Before Mitigation
- Mitigation Measures
- Level of Significance After Mitigation
- References

Impacts and applicable mitigation measures are identified under each section.

## 2. Response to Comments

I7A-7      The Draft SEIR does not have a page 444. However, applicable mitigation measures for all topical sections are detailed in Table 1-1, *Summary of Environmental Impacts, Mitigation Measures, and Levels of Significance After Mitigation* of Chapter 1, *Executive Summary*. In addition, the unavoidable, significant adverse impacts associated with the proposed project are compiled in Chapter 6, *Significant Unavoidable Adverse Impacts*, in the Draft SEIR.

I7A-8      The Draft SEIR indicates that the City has already exceeded SCAG's population growth projections by 18 percent. The 18 percent increase is an estimated result of the proposed project. SCAG's growth projections are largely based on data provided to SCAG from member jurisdictions and based on adopted General Plans and realistic/reasonable growth projections. The City works with other Orange County Council of Government jurisdictions and the Center for Demographic Research (CDR) to provide the most accurate and reliable data to SCAG. It should be noted, that the proposed land use amendment complies with all Element of the General Plan. Therefore, the vision, goals and policies of the General Plan remain applicable and appropriate and comprehensive update is not necessary at this time.

The General Plan update process comment does not address the adequacy of the environmental CEQA requirements for the Draft SEIR. The recommendation will be forwarded to decision-makers for consideration.

## 2. Response to Comments

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## 2. Response to Comments

LETTER I7B – Denys H. Oberman (1 page)

COMMENTS IN RE.  
DRAFT SEIR FOR GENERAL PLAN LAND USE ELEMENT AMENDMENT 4-29-14  
CITY OF NEWPORT BEACH

Please enter into the Public Record

The report acknowledges that it is appropriate to consider areas which can accommodate increased intensity, and those where Decreased Intensity is appropriate.

The City's coastal zones are areas which require careful land use planning so as to prevent Over- Intensification of Use which:

- \* Is detrimental to the aesthetics, openness and access to our coastal natural resources
- \* Creates excess volume of transiency and traffic, incompatible uses compromising our family-oriented, dense coastal residential neighborhoods
- \*The (Transportation and power/utility ) infrastructure cannot support
- \*Creates public safety hazards

I7B-1

Such areas include: Mariners Mile, B anning Ranch, Balboa Peninsula/Lido Isle, Corona del Mar on coastal side, and neighborhoods surrounding the Bay and bluffs. These areas are connected by an arterial corridor, Pacific Coast Highway, that is at capacity.

Thank you.

Denys Oberman

Cc: Concerned Citizens of Newport Beach, SPON

## 2. Response to Comments

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## 2. Response to Comments

### **I7B. Response to Comments from Denys H. Oberman, dated April 29, 2014.**

- I7B-1 Comment acknowledged. This comment does not address the adequacy of the Draft SEIR and needs no further response. As requested, it will be entered into the Public Record.

## 2. Response to Comments

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## 2. Response to Comments

LETTER I8 – Laura Curran (2 pages)

### Comments on Proposed 2014 General Plan Amendment, Newport Beach

**1. Context:** The 2006 Plan focused on the needs and interests of residents; the 2014 proposed Plan emphasizes Economic Development. However, no compelling case is made in the EIR for updating the Plan to focus on Economic Development. These items call into question the validity of the proposed 2014 Plan and the EIR's purpose.

- A. The potential economic benefits are not presented. No analysis is provided on:
  - a. Business Revenue \$ from the plan
  - b. Potential new residential and visitor serving uses
  - c. Tax revenue
- B. The Plan states that 'economic development' is the primary driver. In contrast, the 2006 Plan was focused on activities of interest to residents. Though residents will benefit from some of the sustainability initiatives and livable communities programs, overall the plan lacks a serious consideration of the impact on the residential fabric of the community.
- C. The proposed switch of Development Rights from Newport Coast to Fashion Island will benefit The Irvine Company primarily. However, this is not discussed or analyzed.

The EIR purports to compare the impact of the new Development under the 2006 Plan vs. under an updated 2014 Plan, but the information provided is inadequate.

I8-1

### 2. Table 3-1 Proposed Land Use Changes – P. 58

The Proposed Changes at Fashion Island will have the biggest impact on new Trip Generation (8,000+ Trips Daily), Parking (6,000+ spaces swapped from Newport Coast) and Square Footage (500K/50K/500 Multi-Family Units). However, the Table on Proposed Land Use Changes DOES NOT detail

- A. the allowable Square Feet for the Existing uses
- B. Proposed Capacity in Square Feet for the Proposed Uses

This information provided for all of the other locations. Why is it missing for Fashion Island?

I8-2

### 3. The stated impacts of proposed Changes in Parking spaces and buildable square feet from Newport Coast to Fashion Island are misleading.

Moving spaces and projects which may never be built from Newport Coast to Fashion Island creates a false equivalency. All Parking Spaces and Retail Units are not created equal. Adding the new Square Footage, Trips, and Parking to Fashion Island will have a significant impact. However, the EIR brushes these off as insignificant and does not adequately address the potential impacts.

What consideration is The Irvine Company providing to support this change?

I8-3

### 4. 5.11-3 - Traffic Analysis

The Traffic Analysis identifies Multiple intersections currently at level D, E or F, with conditions expected to worsen, as shown on 5.11-8.

More disturbing is the potential hazard from Freeway onramps, such as the SR-73 Macarthur Exit going South. It is already a challenging offramp to navigate, with a short segment to transition to the offramp and competition from cross traffic attempting to merge onto the SR-73. With additional traffic this off ramp will likely continue to worsen.

I8-4

### 4. Table 5.7-4 SCAG 2012–2035 RTP/SCS Goals Consistency Analysis - Page 273

"Additional development in these areas would facilitate restricting growth in other areas and provide a growing tax base to support the City's services and other community priorities."

- A. The City Services in question and related revenue need to be specified.
  - a. Would the Plan support existing services, or additional services?
  - b. How much revenue will the proposed 2014 Plan generate for services, compared to the 2006 Plan?
  - c. Are these services dependent on proposed 2014 revenue?
  - d. How are proposed revenues to support Services structured?

I8-5

## 2. Response to Comments

- i. Fees
- ii. Taxes
- iii. Assessments
- iv. Other

18-5  
cont'd

4. The Public Outreach has been weak. The 2014 Effort has been minimal by comparison. The **GENERAL PLAN LAND USE ELEMENT AMENDMENT** Committee has only 5 Resident members. The City Website lists only 1 Public Information Meeting, on 09/09/2013, and 1 meeting on April 10, 2014. These meetings have not been widely publicized via newspaper, signage, or email blast to City subscribers.

18-6

In contrast, in 2006, Nancy Gardner led an outreach process which facilitated discussion and solicited input across the City, through meetings led by qualified planning and outreach consultants. Residents from across the City participated.

## 2. Response to Comments

### I8. Response to Comments from Laura Curran, dated April 29, 2014.

I8-1 The basic purposes of the California Environmental Quality Act (CEQA), are to 1) inform governmental decision makers about the potential, significant environmental effects of proposed activities, 2) identify the ways that environmental damage can be avoided or significantly reduced, 3) prevent significant, avoidable damage to the environment by requiring changes in projects and through the use of alternatives or mitigation measures, and 4) disclose to the public the reasons why a governmental agency approved the project in the manner the agency chose if significant environmental effects are involved (CEQA Guidelines, Section 15002).

It is not the purpose of CEQA or the Draft SEIR to make a case for updating the General Plan or to address the economic benefits of the proposed LUE Amendment. Per the purpose and requirements of CEQA for a Supplemental EIR, the Draft SEIR does adequately compare the environmental impacts of the proposed project to the approved General Plan as amended.

The commenter requests a better understanding of the economic benefits of the proposed amendment, and specifically mentions Fashion Island. As stated above, while the economic benefits are not required per CEQA to be discussed in the Supplemental EIR, this issue is likely to be considered by the decision-makers. In accordance with General Plan, a Fiscal Impact Analysis was prepared for the proposed amendment. While the Analysis is limited to the direct fiscal changes resulting from the land use changes, it also recognizes indirect economic benefits when mixed use, vibrant communities are created. Newport Center, which envisions a mix of office, retail and residential uses, will result in such an environment.

I8-2 As shown on Figure 3-5, *Fashion Island/Newport Center Proposed Changes*, the proposed increase in development capacity for the site designated No. 5, *Newport Center/Fashion Island*, could occur within various subareas. The exact location that would ultimately accommodate up to an additional 500,000 SF regional office, 50,000 SF regional commercial, and up to 500 multi-family units is not known at this time. Draft SEIR Table 3-1, *Proposed Land Uses*, therefore, appropriately indicates the existing land use designations for these parcels (which would not change) as “various” and notes that the allowable capacities (square footage) also varies.

I8-3 The land use changes under the proposed LUE Amendment do not represent a “transfer” of entitlement or land use and have not been presented as equivalent. The Draft SEIR analyzes the environmental impacts of all of the proposed land use changes. The Draft SEIR employs industry-accepted, technical methodology to assess the impacts, and compares these to standard thresholds of significance. Moreover, the Draft SEIR identifies several significant, unavoidable impacts for the proposed LUE Amendment. Parking impacts, however, were not analyzed in the Draft SEIR. Per

## 2. Response to Comments

updates to CEQA in 2010, parking is no longer considered an environmental impact and is no longer required to be analyzed in environmental documents. Parking requirements, however, are reviewed by the City prior to project development approval per planning/zoning requirements.

- I8-4 As detailed in the Traffic Impact Study (Draft SEIR, Appendix I), and summarized in Draft SEIR Section 5.11, *Transportation and Traffic*, implementation of the proposed LUE Amendment is not projected to result in any significant impacts to the level of service of any intersections. The definition of significant impacts is included Section 5.11.2 *Thresholds of Significance*. The proposed LUE Amendment would, however, result in significant impacts to two I-405 off-ramps (NB and SB at MacArthur Boulevard). The commenter's concern regarding the SR-73 MacArthur Boulevard southbound exit will be forwarded to decision-makers and Caltrans for consideration. The project-related impacts to this ramp, however, were not determined to be significant.
- I8-5 The statement cited is a general conclusion to determine consistency with the RTP/SCS goals. The text is consistent with the Overview/Purpose of the LUE Amendment as stated in Draft SEIR Section 3.3.2.1 (...the amendment is needed to reflect the changes in the economy and market...). New development will support a tax base as well as development impact fees that will contribute to funding City public services and improvements. The Draft SEIR is not required to provide specific revenue information. CEQA focuses on potential environmental impacts and does not require evaluation of economic or fiscal impacts unless such impacts would indirectly result in physical, environmental impacts.
- I8-6 This comment does not address the adequacy of the Draft SEIR. It will be forwarded to City decision-makers for consideration.



## 2. Response to Comments

LETTER I9 – Richard Sungaila (1 pages)

**From:** Richard Sungaila [mailto:sungaila@earthlink.net]  
**Sent:** Tuesday, April 29, 2014 11:12 AM  
**To:** Ramirez, Gregg  
**Subject:** Comments on proposed changes to the Newport Beach General Plan

### Comments regarding the new Newport Beach General Plan

The Plan appears to be leading us to retrenchment, a stagnant economy, and to be subservient to the concepts of global warming/climate change. There is no scientific consensus or actual data to confirm the reality of global warming/climate change. For the past sixteen years there has been no global warming even though the amount of atmospheric carbon-dioxide, (the errant greenhouse gas claimed to be the gas causing global warming), has increased by 8% over this period. It is noteworthy that the head of the United Nations International Panel on Climate Control (IPCC) agrees that there has been NO GLOBAL WARMING for the past sixteen years.

For an analysis of the latest pronouncements of the United Nations IPCC, click on the link below:

[Forbes: Latest IPCC Report Deliberately Excludes, Misrepresents Important Climate Science](#)

Americans were the first to land on the moon and successfully return because we were innovative and not afraid of our own shadows. We need to have a General Plan which encourages responsible private innovation and investment consistent with the freedom and intent of our Founding Fathers and the Constitution of the United States of America. Oppressive regulations based upon unfounded theories will stifle the American spirit.

I9-1

## 2. Response to Comments

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## 2. Response to Comments

### **I9. Response to Comments from Richard Sungaila, dated April 29, 2014.**

- I9-1 The Draft SEIR evaluates GHG emissions in accordance with the recently adopted changes to the CEQA Guidelines, which became effective March 18, 2010. The comment will be forwarded to City decision-makers.

## 2. Response to Comments

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## 2. Response to Comments

LETTER I10A – Bruce Bartram (3 pages)

**From:** Bruce Bartram [mailto:b.bartram@verizon.net]  
**Sent:** Wednesday, April 30, 2014 12:12 PM  
**To:** Ramirez, Gregg  
**Cc:** blush1996@aol.com; medjkraus@yahoo.com; carlrassidy@att.net  
**Subject:** General Plan Land Use Element Amendment Draft Supplemental Environmental Impact Report

Gregg Ramirez, Senior Planner  
City of Newport Beach Planning Division  
100 Civic Center Drive  
Newport Beach, CA 92660

Re: General Plan Land Use Element Amendment Draft Supplemental Environmental Impact Report

Dear Mr. Ramirez:

On Pg. 1-1 of the Executive Summary of the General Plan Land Use Element Amendment draft Supplemental Environmental Impact Report (SEIR) it is stated in pertinent that:

"This Draft Supplemental Environmental Impact Report (SEIR) addresses the environmental effects associated with the implementation of the City of Newport Beach's proposed General Plan Land Use Element Amendment (proposed project). The California Environmental Quality Act (CEQA) requires that local government agencies, prior to taking action on projects over which they have discretionary approval authority, consider the environmental consequences of such projects....

I10A-1

An EIR is a public document designed to provide the public and local and state governmental agency decision makers with an analysis of potential environmental consequences to support informed decision making."

The underlying purpose of the City's General Plan Land Use Element Amendment is hinted at on Pg. 3-8 of the SEIR Project Description in the Overview/Purpose Section 3.3.2.1. It states in pertinent part:

"In conjunction with the General Plan LUE Amendment Advisory Committee, City staff and their consultants considered potential amendments to 1) increase/decrease development capacity in specific areas of the City and 2) modify land use policies to better reflect land use changes and to support recent Neighborhood Revitalization efforts. In some subareas of the City, amendments to land use designations are proposed to reflect development that will not occur, and other areas have been identified that can benefit from a reallocation of unbuilt building intensity and/or residential units."

## 2. Response to Comments

By "reallocation" the City means to utilize unbuilt building intensity/capacity and unbuilt residential units/capacity from areas where it would not have been use to areas where the City/developers want to use it. Thus, since the unbuilt capacity would not have been used where it was this Amendment in practical terms allows for significantly more new development in comparison with what is actually now "built." That is, in existence for purposes of environmental review. However, because of "reallocation" the total increase doesn't appear significant.

I10A-1  
cont'd

On Pg. 3-29 of the Project Description is Table 3-2 which is comparison of the 2006 General Plan Buildout Quantity with that proposed under the Amendment. For example, for Office Space the 2006 Buildout Quantity is 11,279,966 SF. With the Amendment the new capacity is 11,773,643 SF an increase of 10 percent. However, that amount does not disclose the amount of capacity that is not being utilized under the 2006 General Plan limits. In reality, that unutilized amount of capacity should be added to the amount of increase since it reflects development which would not occur. The entire Table 3-2 should be reviewed with this in mind.

Thus, the supposed reduction of 701 Hotel Rooms for an overall "-13% change" is likewise deceptive because that amount does not reflect that actual Hotel Rooms that really exist for purposes of environmental review.. Under CEQA, lead agencies must identify the existing physical environment – i.e., the baseline set of environmental conditions – against which to compare a project's expected impacts, in order to determine whether project impacts are "significant." (*Save Our Peninsula Committee v. Monterey County Bd. Of Supervisors* (2001) 87 Cal.App.4th 99, 119.)

CEQA Guidelines section 15125 generally defines the baseline as the physical conditions then in existence when the Notice of Preparation ("NOP") is published at the inception of the environmental review. Here, according to Pg. 1-10 of the Executive Summary the Notice of Preparation regarding the SEIR was distributed for comment between October 22, 2013 and November 5, 2013. It is the actual development, i.e. office space, hotel rooms, et al, in existence in this NOP timeframe that should been used in the SEIR's environmental review and analysis of Amendment's impact. Thus, for example, the Project Description and, in particular, Table 3-2 are inaccurate, deceptive and deliberately understate the Amendment's environmental impacts.

I10A-2

The EIR is "the heart of CEQA." (Guidelines, § 15003(a); *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810). As such, it is the primary means of achieving the legislative declaration that the policy of this state is to "take all action necessary to protect, rehabilitate, and enhance the environmental quality of the state." (Public Resources § 21001(a).) It is also an "environmental 'alarm bell' whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return." (*County of Inyo v. Yorty, supra*, 32 Cal.App.3d 795, 810.) In particular, an accurate project description" is the "*sine qua non* of an informative and legally sufficient EIR." (*City of Santee v. County of San Diego* (1989) 214 Cal. App. 3d 1438; *County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 192-193.) Given the inaccurate Project Description as demonstrated by Table 3-2 this SEIR is neither informative and/or legally sufficient. Id.

Finally, on Pgs. 3-30-33 of the SEIR are proposed changes to Land Use Element Goals. The current Goal LU 1 is:

I10A-3

"**Goal LU 1** A unique residential community with diverse coastal and upland neighborhoods, which values its colorful past, high quality of life, and community bonds, and balances the

## 2. Response to Comments

needs of residents, businesses, and visitors through the recognition that Newport beach is primarily a residential community."

Under the Amendment, LU 1 is changed as follows:

**"Goal LU 1** A unique, primarily residential community with diverse coastal and upland neighborhoods, which values its colorful past, high quality of life, and community bonds, and balances the needs of residents, businesses, and visitors"

Notice the "de-emphasis" on Newport Beach being a unique residential community to a unique, primarily residential community. Obviously, the City is attempting to change the land use character of the City of Newport Beach to allow more nonresidential development. As shown above, it is attempting to do this without proper environmental review and without an informed public alerted to the environmental consequences should the City succeed in doing so.

I10A-3  
cont'd

Bruce Bartram  
2 Seaside Circle  
Newport Beach, CA 92663

## 2. Response to Comments

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## 2. Response to Comments

### **I10A. Response to Comments from Bruce Bartram, dated April 30, 2014.**

- I10A-1 The Draft SEIR appropriately analyzes the potential environmental impact of the net change in allowed development intensity between the 2006 General Plan and the General Plan as amended by the proposed LUE Amendment. Since the 2006 General Plan EIR analyzed buildout of that plan, adding the net impact of the amendment reflects an environmental analysis of the full buildout potential of the updated General Plan.
- I10A-2 A discussion of the approach to the Draft SEIR and the definition of baseline for this Supplemental EIR are included under Draft SEIR Section 1.2.1, *Type and Purpose of this Draft EIR*. For a Supplemental EIR, the original EIR serves as “baseline” with respect to the incremental change in impacts. The incremental impact between buildout of the 2006 General Plan and the buildout of General Plan as proposed by the LUE Amendment is assessed. This incremental impact is assessed relative to any change in existing conditions. The environmental setting of each topical section provides an update of existing conditions and changes in circumstances since certification of the 2006 General Plan EIR. As noted, where a statistical comparison is required to quantify impacts (i.e., air quality, GHG, population and housing, public services, and utilities and service system impacts), the projected buildout data is based on the land use information used for the traffic modeling. The modeling incorporates land use changes that have been approved subsequent to the certification of the 2006 General Plan. A list of the General Plan Amendments and project approvals that have been processed subsequent to the 2006 General Plan EIR certification and are included in the analysis is included as Attachment C to this Final SEIR. The methodology does not underestimate potential environmental impacts of the proposed LUE Amendment, but on the contrary analyzes the buildout of the General Plan as amended.
- I10A-3 This comment does not address the adequacy of the Draft SEIR analysis. It will be forwarded to decision-makers for consideration.

## 2. Response to Comments

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## 2. Response to Comments

LETTER I10B – Bruce Bartram (3 pages)

**From:** Bruce Bartram [mailto:b.bartram@verizon.net]  
**Sent:** Wednesday, April 30, 2014 3:45 PM  
**To:** Ramirez, Gregg  
**Cc:** blush1996@aol.com; medjkraus@yahoo.com  
**Subject:** Re: General Plan Land Use Element Amendment Draft Supplemental Environmental Impact Report - Comment II

Gregg Ramirez, Senior Planner  
City of Newport Beach Planning Division  
100 Civic Center Drive  
Newport Beach, CA 92660

Re: General Plan Land Use Element Amendment Draft Supplemental Environmental Impact Report - Comment II

Dear Mr. Ramirez:

This email is in follow up to the SEIR comment below. On Pg. 3-1 of the Project Objectives the "Statement of Objectives" is listed as follows:

"The City of Newport Beach Planning Commission and City Council approved the following objectives for the 2006 General Plan:

§ Preserve and enhance Newport Beach's character as a beautiful, unique residential community.

§ Reflect a conservative growth strategy that

I Balances needs for housing, jobs and services.

I Limits land use changes to a very small amount of the City's land area.

I Directs land use changes to areas where residents have expressed a willingness to consider change and where sustainable development can occur.

I Protects natural resources, open space, and recreational opportunities.

§ Protect and enhance water quality.

§ Protect and enhance recreational opportunities and public access to open space and natural resources.

§ Modify land uses, densities, and intensities so that traffic generation is controlled.

These objectives remain consistent with the General Plan LUE Amendment and will aid decision makers in their review of this project and its associated environmental impacts."

In fact, in the 2006 General Plan Chapter 1 Introduction on Pgs. 1-2 & 1-3 it is stated regarding the General Plan's objectives in pertinent part as follows:

I10B-1

I10B-2

## 2. Response to Comments

"This General Plan is the first comprehensive revision of the City's General Plan in more than thirty years and is the result of more than four years of work by thirty-eight residents representing all segments of this community. These residents—members of the General Plan Advisory Committee, or GPAC—developed this plan after thorough study of input from thousands of their neighbors that was received during the most extensive public outreach in the City's history.

After receiving community input, GPAC developed a "Vision Statement"—a description of the City that residents want Newport Beach to be now and in 2025—to serve as a blueprint for this General Plan Update. GPAC, with the assistance of planning professionals and using the Vision Statement as a guide, then developed this General Plan to ensure that the City achieves the vision by, among many other things, doing the following:

- Reducing traffic citywide by 28,920 trips each day over the life of the plan
- Reducing potential new commercial, office, and industrial space by 1.45 million square feet
- Supporting efforts to acquire Banning Ranch for permanent open space
- Creating and implementing a long term strategy to control John Wayne Airport impacts
- Taking strong action to prevent or reduce water pollution in the bay and ocean
- Enhancing natural resources such as Upper Newport Bay
- Improving circulation by synchronizing traffic lights and making road improvements that respect our community character
- Creating guidelines that preserve the charm and beauty of our residential neighborhoods
- Preserving public views of the ocean, harbor and bay
- Continuing to provide first-class service to seniors
- Continuing to offer education and recreation programs such as Junior Lifeguards
- Maintaining a world-class public library system with branches convenient to residents
- Promoting revitalization of older commercial areas like West Newport and Balboa Village
- Fostering artistic and cultural activities and venues in the community

The General Plan for the City of Newport Beach presents a vision for the City's future and a strategy to make that vision a reality. The Plan is the result of thousands of hours of research and technical studies, the collective efforts of the diversity of elected decision-makers, individuals, and agencies who cumulatively guide and shape land use development and natural resource conservation and the engagement of numerous individuals throughout the community who have articulated their hopes and expectations for the City's future" (Emphasis added)

The GPAC Vision Statement objectives are obviously very different from the SEIR's Project Objectives the Amendment is supposedly consistent with. Please explain how the Amendment is consistent with the following Vision Statement Objectives:

- Reducing traffic citywide by 28,920 trips each day over the life of the plan
- Reducing potential new commercial, office, and industrial space by 1.45 million square feet
- Supporting efforts to acquire Banning Ranch for permanent open space
- Creating and implementing a long term strategy to control John Wayne Airport impacts
- Taking strong action to prevent or reduce water pollution in the bay and ocean
- Enhancing natural resources such as Upper Newport Bay
- Improving circulation by synchronizing traffic lights and making road improvements that respect our community character

I10B-2  
cont'd

## 2. Response to Comments

- Creating guidelines that preserve the charm and beauty of our residential neighborhoods

It should be noted that on Pg. 1-3 the General Plan Introduction states as follows:

"The General Plan recognizes that Newport Beach is primarily a residential community, with diverse coastal and upland neighborhoods. As Newport Beach is almost fully developed, the Plan focuses on conserving the existing pattern of land uses and establishes policies for their protection and long term maintenance." (Emphasis added)

110B-2  
cont'd

Please explain how the Amendment is consistent with the General Plan characterization of Newport Beach above. Also, how is the Amendment consistent with "conserving the existing pattern of land uses and establishes policies for their protection and long term maintenance."

Lastly, please explain how the proposed amendment to Land Use Goal LU-1 is consistent with the above Vision Statement. Once again, that proposed amendment is as follows:  
The current Goal LU 1 is:

**"Goal LU 1** A unique residential community with diverse coastal and upland neighborhoods, which values its colorful past, high quality of life, and community bonds, and balances the needs of residents, businesses, and visitors through the recognition that Newport beach is primarily a residential community."

Under the Amendment, LU 1 is changed as follows:

**"Goal LU 1** A unique, primarily residential community with diverse coastal and upland neighborhoods, which values its colorful past, high quality of life, and community bonds, and balances the needs of residents, businesses, and visitors"

110B-3

Once again, the EIR is "the heart of CEQA." (Guidelines, § 15003(a); *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810). As such, it is the primary means of achieving the legislative declaration that the policy of this state is to "take all action necessary to protect, rehabilitate, and enhance the environmental quality of the state." (Public Resources § 21001(a).) It is also an "environmental 'alarm bell' whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return." ( *County of Inyo v. Yorty, supra*, 32 Cal.App.3d 795, 810.)

In conclusion, how are the deliberate misstatements regarding the 2006 General Plan's objectives contained in the SEIR listed above consistent with the SEIR fulfilling its duty under CEQA to inform the public of the Amendment's environmental changes "before they have reached ecological points of no return?"

Bruce Bartram  
2 Seaside Circle  
Newport Beach, CA 92663

**From:** [Bruce Bartram](#)  
**Sent:** Wednesday, April 30, 2014 12:12 PM  
**To:** [GRamirez@newportbeachca.gov](mailto:GRamirez@newportbeachca.gov)  
**Cc:** [blush1996@aol.com](mailto:blush1996@aol.com) ; [medikraus@yahoo.com](mailto:medikraus@yahoo.com) ; [carlrassidy@att.net](mailto:carlrassidy@att.net)  
**Subject:** General Plan Land Use Element Amendment Draft Supplemental Environmental Impact Report

110B

## 2. Response to Comments

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## 2. Response to Comments

### **I10B. Response to Comments from Bruce Bartram, dated April 30, 2014.**

I10B-1 Comment acknowledged.

I10B-2 This comment does not address the adequacy of the Draft SEIR with respect to environmental analysis or CEQA requirements. The comment requests clarification regarding the proposed LUE Amendment consistency with the GPAC “Vision Statement” developed for the 2006 General Plan Update. The comment will be forwarded to decision-makers for consideration. I10B-3 As with the previous comment, this comment addresses issues related to the General Plan Update and not the merits of the environmental analysis in the Draft SEIR. The comment concludes that the Draft SEIR contains “deliberate misstatements regarding the 2006 General Plan’s objectives....” The project objectives in the Draft SEIR are accurately reproduced from the 2006 General Plan Update EIR project objectives as certified in that document. .

## 2. Response to Comments

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## 2. Response to Comments

LETTER I11A – Carl Cassidy (2 pages)

4/30/14

Gregg Ramirez, Senior Planner  
City of Newport Beach Planning Division  
100 Civic Center Drive  
Newport Beach, CA 92660  
gramirez@newportbeachca.gov

Re: Public Comment on General Plan Land Use Element Amendment Draft  
Supplemental Environmental Impact Report

Dear Mr. Ramirez:

Thank you for your dedicated service to the City of Newport Beach and efforts for the immensely complicated and extensive Amendment to the General Plan Land Use Element within the eye of the needle window for inclusion on the November ballot. Because the Supplemental Environmental Impact Report is so extensive for the humungous changes to the General Plan Land Use Element, the efforts of the City Staff are to be appreciated.

Intro

The residents of the City of Newport Beach should be amazed that the specially selected Committee for Amending the Land Use Element and City Staff completed with immense effort such extensive revisions to the General Plan that generates a Supplemental (imagine if it was an original report) Environmental Impact Report in excess of 1100 pages. The report is so overwhelming and General Plan Land Use Element changes so immensely extensive with far reaching long term impacts upon the City that the Committee and City Staff should be credited aggressively determining future course of the City. To get so much into a revised document for crucial changes to the General Plan Land Use Element, even with a reasonable timeline for proper committee review, environmental study, and public review is an amazing committed effort by all involved.

1) Given the **enormity of the changes taken as a whole**, (proposed three new large scale hotels added for example) the amount of time provided and opportunities to review and comment, has the public through the regular city public participation process been given ample reasonable opportunity to consider the SEIR and the underlying land use element changes?

I11A-1

For example the specifics provide on Pg. 3-10 of the Project Description stating that the Amendment will allow a new 125 room hotel at 150 Newport Center Drive in Fashion Island/Newport Center Planning Area. Above that it is stated in Fashion Island the Amendment will allow 500,000 square feet of new office space; 50,000 square feet of new commercial space; and 500 new multi-family units. 15,000 square feet of additional "mixed use" space is allowed at 100 Newport Center Drive.

2) Have the **various committees and commissions all been provided an opportunity to review and comment** (Harbor Commission, Bicycle Safety, Parks and Recreation, Water Quality, ..... ) upon the extensive revisions to the future of the City?

I11A-2

3) How does the process for making such extensive specific individual changes proposed in amending the land use element to the General Plan compare to the process employed by other cities in California for making a rewriting of the future of the City and the EIR or need for supplemental EIR with regard to the **specificity of defined development vs. a wholistic approach left to the will of the voting public?**

I11A-3

4) Has the voting public been provided an opportunity to review the environmental impact upon the **City of Newport Beach neighbors and other agency interests** (Costa Mesa, Huntington Beach, California Coastal Commission, Santa Ana River, ....) or is the SEIR separately reported to NB without consideration for interests of all impacted, taken as a whole?

I11A-4

## 2. Response to Comments

5) Where does the SEIR report consider the fiscal impact to the city (increased litigation costs, imminent water rate charges, and other city costs) for the immense wholistic change to the City Land use element not each individual specific supplemental change including reallocations from the prior general plan approved by the public?

111A-5

6) Is a **supplemental EIR sufficient** for protecting the interests of all involved when there the amount of changes, enormity of fiscal impact, immense number of revisions for traffic, safety, water quality (including imminent impact upon availability and costs to residents) are so extensive. For example Pg. 3-8 of the Project Description in the Overview/Purpose Section 3.3.2.1. states in pertinent part: (Bold and underline emphasis added by this author)

111A-6

"In conjunction with the General Plan LUE Amendment Advisory Committee, City staff and their consultants considered potential amendments to 1) increase/decrease development capacity in specific areas of the City and 2) modify land use policies to better reflect land use changes and to support recent Neighborhood Revitalization efforts. In some subareas of the City, amendments to land use designations are proposed to reflect development that will not occur, and other areas have been identified that can benefit from a reallocation of **unbuilt** building intensity and/or residential units."

Does this mean that by "reallocation" the **City means to utilize unbuilt** building intensity/capacity and unbuilt residential units/capacity from areas where it would not have been use to areas where the City/developers want to use it. Thus, since the unbuilt capacity would not have been used where it was **this Amendment in practical terms allows for significantly more new development.** However, because of "reallocation" the total increase doesn't appear significant.

The Pg. 3-29 Table 3-2 provides a comparison of the 2006 General Plan Buildout Quantity with that proposed under the Amendment. The Office Space the 2006 Buildout Quantity is 11,279,966 SF. With the Amendment the new capacity is 11,773,643 SF an increase of 10 percent. However, that amount does not disclose the amount of capacity that was not being utilized under the 2006 General Plan limits. In reality, that unutilized amount of capacity should be added to the amount of increase since it reflects development which would not occur.

6) Given the changes to the voter approved general plan including reallocations, existing litigation, lacking any amended changes in land use element for bringing general plan into compliance with court decision regarding the general plan language conflicts, and enormity of amended changes, in your expert opinion as a city planner is a supplemental EIR, rather an **entirely new EIR** that considers the reallocations, missing court directed language, and the land use element taken as a whole not a more reasonable inquiry for the evaluation of the proposed amendment to the land use element.

111A-7

Carl Cassidy                      carlcassidy@att.net

## 2. Response to Comments

### I11A. Response to Comments from Carl Cassidy, dated April 30, 2014.

- I11A-1 Comment acknowledged. The 45-day public review period for the Draft SEIR between March 17, 2014, and April 30, 2014, complied with the CEQA requirements for public review of the Draft SEIR.
- I11A-2 This comments does not address the adequacy of the Draft SEIR or CEQA requirements for review of the Draft SEIR. It will be forwarded to City decision-makers for consideration.
- I11A-3 CEQA is a California law, and applicable requirements pursuant to CEQA are the same for all cities in California. This comment regarding non-CEQA requirements or procedures of other cities is not related to the Draft SEIR or CEQA requirements of the proposed LUE Amendment and will be forwarded to decision-makers for consideration. I11A-4 Draft SEIR Chapter 4.2, *Regional Environmental Setting*, provides the context of the project relative to area-wide planning considerations; Section 5.7, *Land Use and Planning*, assesses the proposed amendment's impacts relative to related plans, including the Airport Environs Land Use Plan (AELUP), the Orange County Newport Coastal Local Coastal Program and City of Newport Beach Coastal Land Use Plan, and the Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS). CEQA Guidelines, Section 15086, *Consultation Concerning the Draft EIR*, specifies requirements for consulting with other agencies, including the requirement for lead agencies to consult and request comments from "any city or county which borders on a city or county within which the project is located." In accordance with this requirement, the City of Newport Beach's notices for the proposed LUE Amendment included notices to the County of Orange and cities of Huntington Beach, Costa Mesa, and Irvine.
- I11A-5 An EIR is not required to address fiscal impacts of a proposed project. CEQA focuses on potential environmental impacts and does not require evaluation of economic or fiscal impacts unless such impacts would indirectly result in physical, environmental impacts (CEQA Guidelines, Section 15131, *Economic and Social Effects*).
- I11A-6 The Draft SEIR appropriately analyzes the potential environmental impact of the net change in allowed development intensity between the 2006 General Plan and the General Plan as amended by the proposed LUE Amendment. Since the 2006 General Plan EIR analyzed buildout of that plan, adding the net impact of the amendment reflects an environmental analysis of the full buildout potential of the updated General Plan.
- I11A-7 The Draft SEIR fully addresses the potential impacts of the proposed LUE Amendment. As described in Draft SEIR Section 1.2.1, *Type and Purpose of This Draft EIR*, including the subsection *Approach/Definition of Baseline*, the Draft SEIR also addresses the changes in circumstances in existing conditions since certification of the 2006 General Plan EIR. This approach was appropriate for the proposed project.

## 2. Response to Comments

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## 2. Response to Comments

LETTER I11B – Carl Cassidy (2 pages)

5/1/14

Gregg Ramirez, Senior Planner  
City of Newport Beach Planning Division  
100 Civic Center Drive  
Newport Beach, CA 92660  
gramirez@newportbeachca.gov

Re: Timely 5-1-14 Public Comment on General Plan Land Use Element Amendment Draft  
Supplemental Environmental Impact Report

Dear Mr. Ramirez:

As expressed in my prior written public comment, we the residents of Newport Beach appreciate dedicated service to the City of Newport Beach and efforts for the immensely complicated and extensive Amendment to the General Plan Land Use Element.

Intro

It has come to my attention that because the Supplemental Environmental Impact Report with extensive and enormous number of cumulative long term changes to the General Plan Land Use Element, that I had miscalculated the number of days from the 45-day public review period for the SEIR set forth in the "Notice of Completion & Availability" (March 17, 2014 – April 30, 2014) is inconsistent to me with how other public lead agencies in California calculate and the first from the count of days during which an announcement or document is available for review. Under generally accepted documented filings pursuant to CEQA Guidelines, Section 15087 45-day public review period initiated on March 17 should run through the end of business on (March 18 + 45 days =) May 1. March 14 days, April 30 days, with an additional day for all public comment on May 1.

I11B-1

Because of this misunderstanding or should the City not respond to my timely filed public comment the City will be operating outside the law and more importantly not providing all voting residents an equal opportunity for public comment and equal protection under the law.

It is my understanding that when **any of the following conditions** occur the lead agency (City of Newport Beach) shall find that a project may have a significant effect on the environment which will require a Mandatory Finding of Significance. Such a finding shall require an EIR to be prepared (CEQA Guidelines Section 15065):

- When a project has the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of an endangered, rare or threatened species, or eliminate important examples of the major periods of California history or prehistory;
- When a project has the potential to achieve short-term goals to the **disadvantage of long-term environmental goals**;
- When a project has possible environmental effects which are individually limited but **cumulatively considerable**;
- When the environmental effects of a project will cause **substantial adverse effects on human beings**, either directly or indirectly.

I11B-2

## 2. Response to Comments

Because the public comment period was not in legal compliance with the statutes and regulation without any additional review of additional non-compliance for filing requirement, the entire SEIR must be properly viewed as tainted subject to additional review and scrutiny by the public. H1B-3

In addition, I have not been able to locate specific findings within the SEIR that conclusively resolve and state emphatically that each of the above requirements under CEQA Guidelines Section 15065 have been addressed and the public given proper notice and opportunity to offer public comment. H1B-4

As I stated in my prior public comment, I have been involved on the Water Quality Committee for the better part of the last two years. I am humbled and amazed by the intellect, experience, and specific dedicated knowledge of the committee members, the committed expertise of the Chairman, the regular attendees, and the speaking presenters on water quality issues. When I walk in the room the IQ of the room decreases by 20 per cent. There is almost a century of dedicated public service to various water quality issues to different public agencies. The fact that this immense resource with dedicated service and extensive specific knowledge, expertise, and successful water quality problem resolution as it pertains specifically to Newport Beach that was not considered by the SEIR or by the advisory committee in drafting the proposed general plan amendment is an immense disservice to the residents of Newport Beach. I welcome the opportunity to provide extensive detailed future facts to the public and the planning department regarding the gross deficiency of the SEIR on the matter of water quality. H1B-5

One can only wonder if the public comment period includes a severe restriction upon public comment outside the law and the water quality resource information has been neglectfully omitted from the General Plan Land Use Element Amendment Draft Supplemental Environmental Impact Report what additional committees and commissions were disregarded in developing the immense changes to the General Plan.

Carl Cassidy      carlcassidy@att.net

## 2. Response to Comments

### **I11B. Response to Comments from Carl Cassidy, dated May 1, 2014.**

- I11B-1 The public review period for the LUE Amendment Draft SEIR, March 27, 2014 through April 30, 2014, is in accordance with the requirements of CEQA in CEQA Guidelines Section 15087, Public Review of the Draft EIR, and Section 15105, Public Review Period for a Draft EIR or a Proposed Negative Declaration or Mitigated Negative Declaration. Section 15105 (a) stipulates that the public review period for a Draft EIR “shall not be less than 30 days nor should it be longer than 60 days except under unusual circumstances. When a draft EIR is submitted to the State Clearinghouse for review by state agencies, the public review period shall not be less than 45 days, unless a shorter period, not less than 30 days, is approved by the State Clearinghouse.” Section 15087(a) stipulates that “the lead agency shall provide public notice of the availability of a draft EIR at the same time it sends a notice of completion to the Office of Planning and Research.” The City posted the Notice of Availability for the public on March 17, 2014. Section 15087 (e) stipulates that “...Day one of the state review period shall be the date the State Clearinghouse distributes the document to state agencies.” For the LUE Amendment Draft SEIR, the State Clearinghouse notified the City that the documents had been distributed and the public review period for the Draft SEIR would be from March 17, 2014, through April 30, 2014. Moreover, although the public review period officially closed on April 30, 2014, the City accepted and has responded to late comment letters in this Final SEIR (please see comment letters I19 through I23, dated May 1 through May 11, 2014).
- I11B-2 The commenter has correctly cited CEQA requirements, and the Draft SEIR for the proposed LUE Amendment was prepared in accordance with these mandatory findings.
- I11B-3 Please refer to Response I11B-1. The Draft SEIR was prepared in compliance with the legal requirements.
- I11B-4 The Mandatory Findings of Significance are included in the Initial Study, Draft SEIR, Appendix A.
- I11B-5 With the exception of the comment regarding deficiency of the Draft SEIR on water quality, this comment does not address the adequacy of the Draft SEIR. The comment regarding the deficiency of the Draft SEIR with respect to water quality is not sufficiently specific to address.

## 2. Response to Comments

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## 2. Response to Comments

LETTER I12 – Dorothy Kraus (6 pages)

April 30, 2014

Dear Gregg,

Thank you and the other members of the General Plan Land Use Advisory Amendment Committee for the effort put forth for the proposed General Plan update. Please distribute my comments below and enter into the administrative record for this project.

Intro

**Executive Summary, Section 1.1.2, Approach/Definition of Baseline, page 1-5 to 1-6 states:**

'Impacts are assessed for the net land use changes under the proposed amendment, as described in Chapter 3, Project Description. Where a comparison of 2006 General Plan versus General Plan LUE Amendment statistics are required to quantify impacts (i.e., air quality, GHG, population and housing, public services, and utilities and service system impacts), the projected buildout data used is based on the land use information used for the traffic modeling in order to maintain consistency throughout the analysis of the Draft SEIR. Traffic impacts associated with proposed General Plan LUE Amendment are determined by comparing the future scenarios of the adopted 2006 General Plan with the future scenario of the General Plan if the Land Use Element is amended as proposed. The modeling has been conducted for both scenarios independently. *The land use input for both scenarios' models incorporate land use changes that have been approved subsequent to the certification of the 2006 General Plan EIR.* (My highlight for emphasis)

I12-1

Therefore, the modeling reflects existing traffic conditions and accurately compares buildout to buildout of the two scenarios, thereby assessing the impact of the incremental project changes. *Appendix C provides a list of General Plan Amendments and project approvals that have been processed subsequent to certification of the 2006 General Plan EIR and are incorporated into the modeling for both the 2006 General Plan buildout and General Plan LUE Amendment buildout scenarios.*' (My highlight for emphasis)

**Comment:** Appendix C does not contain 'a list of contain of General Plan Amendments and project approvals that have been processed subsequent to certification of the 2006 General Plan EIR'. Appendix C contains the Land Use Element Policy Revisions. Nowhere in the SEIR is there a 'list of General Plan Amendments and project approvals that have been processed subsequent to certification of the 2006 General Plan EIR'. The absence of this information makes it impossible for the community and public to fully understand the underlying data used to establish the baseline. This is a serious omission and the City is obligated to its residents and public to revise the SEIR to include this critical backbone information and recirculate the SEIR for review and comment.

**Comment:** Furthermore, it is unacceptable and highly suspect that General Plan Amendments and project approvals that have been processed subsequent to certification of the 2006 General Plan EIR (which the public has no visibility to in this SEIR) *'are incorporated into the modeling for both the 2006 General Plan buildout and General Plan LUE Amendment buildout scenarios'.*

I12-2

There is no justification for the absence of this critical component for public review. The attributes of each General Plan amendment and approved project since the 2006 General Plan (e.g., land use type,

1

## 2. Response to Comments

square footage, # of dwelling units etc.) are available in City records. Compilation of an 'independent scenario' for this critical piece of the baseline could have been easily developed, and presented for public review in this SEIR CEQA document. Instead this data is buried within the 2006 General Plan buildout scenario and the General Plan LUE Amendment buildout scenario.

I12-2  
cont'd

Please explain why modeling was not conducted for this scenario independent of the 2006 General Plan buildout scenario and the General Plan LUE Amendment buildout scenario.

To ensure full transparency to the underlying data and analysis performed to create the baseline, I request that the SEIR be revised to provide the traffic model of a third scenario, 'General Plan Amendments and approved projects since certification of the 2006 General Plan EIR' independent of the 2006 General Plan buildout scenario and the General Plan LUE Amendment buildout scenario, and then recirculate the revised SEIR for public review and comment.

### **Transportation and Traffic: General Comment**

Why isn't Construction related traffic included in the Transportation and Traffic section of the SEIR? Construction related noise and air quality impacts are addressed in these sections of the SEIR. Construction traffic is an integral component of an environmental impact analysis. This is a gross omission which should be addressed. I request that the SEIR be revised to include an analysis of Construction traffic impacts and that the SEIR be recirculated for public comment.

I12-3

### **Executive Summary, Section 1.6, pages 1.9 – 1.10 Issues to be Resolved states:**

'Section 15123(b)(3) of the CEQA Guidelines requires that an EIR contain issues to be resolved including the choice among alternatives and whether or how to mitigate significant impacts. With regard to the proposed project, the major issues to be resolved include decisions by the lead agency as to the following:

1. Whether this Draft SEIR adequately analyzes the environmental impacts of the proposed project, as compared to the approved 2006 General Plan;
2. Whether the benefits of the proposed project override its environmental impacts, which cannot be feasibly avoided or mitigated to a level of insignificance;
3. Whether the proposed land use changes are compatible with the character of the existing area;
4. Whether the identified mitigation measures should be adopted and/or modified;
5. Whether there are other mitigation measures that should be adopted for the proposed project in addition to the mitigation measures recommended in the Draft SEIR;
6. Whether there are any alternatives to the proposed project that would reduce or avoid any of its significant impacts and achieve most of its basic project objectives. '

I12-4

**Comment:** Regarding issue #3 above: The proposed land use changes are not compatible with the character of the existing areas. Newport Beach is a unique residential community and the proposed increased development will degrade the quality of life of Corona del Mar residents (at a minimum).

## 2. Response to Comments

Traffic will cut-through this residential community in order to avoid getting caught in traffic. This proposed amendment is transforming Newport Beach into a commercial center and is contrary to the 2006 General Plan vision and goals.

I12-4  
cont'd

Regarding Issue #5: Nowhere are 'other mitigation measures' suggested for adoption in the SEIR. With all the 'significant and unavoidable impacts' identified throughout the SEIR there is a conspicuous absence of mitigation plans. Please provide an explanation as to why the SEIR lacks mitigation plans in light of all the 'significant and unavoidable' impacts identified.

### Transportation and Traffic, Section 5.11 and Appendices I:

**Comment:** The Newport Banning Ranch certified FEIR states that projected average daily traffic is 14,989 trips. Where in the SEIR, and what specific streets and intersections in tables, figures, and/or text factor in the Newport Banning Ranch ADTs?

I12-5

### Transportation and Traffic, Section 5.11, Figure 5.11-4a – Existing Study Area Intersections, Turn Lanes and Intersection Controls:

**Comment:** 1A, Bluff Road & Coast Highway and 1B, 15<sup>th</sup> Street & Coast Highway are depicted as 'future intersections'. Please provide the source document that identifies the intersection presented as 1B, 15<sup>th</sup> Street & Coast Highway in this figure.

I12-6

### Traffic and Transportation, Section 5.11.1, Environmental Setting

**Comment:** There are inconsistencies and missing information in Section 5.11.1, Environmental Setting with respect to the conclusions made below and Figure 5.11-3. The first paragraph on page 5.11-4 reads as follows:

'The resulting ADT V/C ratios for existing conditions on the arterial roadway system in the study area are illustrated on Figure 5.11-3, Existing Conditions V/C Ratios. Based on the ADT V/C level of service performance criteria, arterials in the study area generally appear to have volume less than theoretical planning level capacity (V/C>1.0) with the exception of the following locations:

- Newport Boulevard north of Coast Highway
- Coast Highway between Newport Boulevard and Dover Drive
- Coast Highway between MacArthur Boulevard and Marguerite Avenue
- 17th Street east of SR-55 Freeway
- MacArthur Boulevard between Bison Avenue and San Joaquin Hills Road '

Looking at Figure 5.11-3, Existing Conditions V/C Ratios, and the 'exceptions' noted in the above paragraph I am unable to cross-reference all of the locations to the V/C references on the Figure 5.11-3.

I12-7

I took a stab at connecting the exceptions above to the V/C ratios as follows:

- Newport Boulevard north of Coast Highway is V/C 1.02
- Coast Highway between Newport Boulevard and Dover Drive – Although Dover Drive is not shown on the map I assume V/C 1.29

## 2. Response to Comments

- Coast Highway between MacArthur Boulevard and Marguerite Avenue – although neither MacArthur Blvd. or Marguerite Avenue are named streets on this map I assume V/C is 1.5
- 17th Street east of SR-55 Freeway –I cannot find a V/C on the map for this location.
- MacArthur Boulevard between Bison Avenue and San Joaquin Hills Road – Although MacArthur Blvd. is not named on this map we assume V/C 1.35.

I12-7  
cont'd

Additionally, on Figure 5.11-3 there is a V/C 1.16 noted in the vicinity of Ruth Lane and the SR-55 Freeway which is not listed as an 'exception' in the above paragraph. Furthermore, there is one other location in the vicinity of San Joaquin Hills Road and San Miguel Drive (maybe this is MacArthur) with a V/C of 1.2 which is not on the list above.

Please provide an explanation for the inconsistencies identified in this comment.

**Traffic and Transportation, Page 5.11-1, Environmental Setting, Existing Roadway Network states:**

'Figure 5.11-1, *Existing Through Lanes*, identifies the existing circulation system in the study area together with existing midblock lanes on arterial roadways. Existing study area intersections analysis locations are shown on Figure 5.11-2. Of the 90 existing intersection analysis locations, 64 are in the City of Newport Beach, and 26 are in the City of Irvine. A few are on City boundaries with Tustin and Costa Mesa. The following analyzes the existing roadway network and conditions in the study area.'

I12-8

**Comment:** There is no explanation of how 'study area intersection analysis locations' were selected. What was the selection criteria used for choosing these study area intersections?

**Traffic and Transportation, Page 5.11-4, Environmental Analysis, 1<sup>st</sup> paragraph states:**

'Daily roadway segment analysis requires calculating the daily traffic volume divided by the roadway segment capacity'.

I12-9

**Comment:** Where in the SEIR Traffic and Transportation section of the SEIR is there a table, figure, definition and/or text reference that defines 'roadway segment capacity.' Furthermore, please define/explain what 'daily roadway segment analysis' is? What figures, tables, text show results of 'daily roadway segment analysis'.

**Appendix I – Traffic Report 3\_12\_2014, pdf page 53, Table 2-1, City of Newport Beach, Roadway Segment Average Daily Traffic (ADT) Counts.**

**Comment:** What is the difference between Table 2-1 in the Appendix and Table 5.11-1 Roadway Average Daily Traffic Volumes, Existing Conditions, in Section 5.11, Transportation and Traffic? If they're the same why were they not presented the same in both the appendix and section 5.11? If they're different, please explain the difference and how this data was used in both presentations.

I12-10

**Appendix I – Traffic Report 3\_12\_2014, 3.3 Peak Hour Intersection Operations, pdf page 92, first paragraph states:**

'For the intersections of Superior Avenue at Coast Highway and Newport Boulevard at Coast Highway, there were no recommended improvements included in the 2006 General Plan. *However, an extended*

I12-11

## 2. Response to Comments

**ICU analysis was performed (Section 6.2.1) using alternative geometric improvements in order to potentially bring the deficient intersections back to acceptable LOS.** (my added emphasis)

**Comment:** Section 6.2.1 addresses the City of Irvine intersections and there is no discussion of 'extended ICU analysis' for Superior Avenue and Coast Highway or Newport Blvd. and Coast Highway. Please provide the extended ICU analysis performed for these intersections that is supposed to be in Section 6.2.1.

I12-11  
cont'd

**Appendix I – Traffic Report, 3/12/2014, pdf page 97, 4.1 Land Use Changes. First paragraph of 4.1 Land Use Changes states:**

'Table 4-1 provides a citywide summary of land use statistics, with the changes to land use types and intensities in various areas throughout the City of Newport Beach which are currently being evaluated. In general, land use changes occur in residential, commercial, and office categories, hotel, and an elementary / private school, as further described below. As compared to the 2006 General Plan scenario, the General Plan LUE Amendment (proposed project) comprises an additional 2,098 dwelling units.'

I12-12

**Comment:** The use of term 'citywide' in this paragraph is misleading. The scope of the land use statistics is confined to land use area changes proposed in the amendment and **not 'citywide'**.

**Appendix I – Traffic Report, 3/12/2014, pdf page 97, Table 4-1, City of Newport Beach, General Plan Buildout Land Use Comparison.**

I12-13

**Comment:** What is the origin of 'Land Use Code'? Where are the Description, Units (of measure), Quantity (of units), and Change (+/-) for the General Plan Amendments and projects approved subsequent to the 2006 General Plan? Also, please specify which of the Land Use Codes and Descriptions contain the proposed Newport Banning Ranch development land use information.

**Appendix I – Traffic Report, 3/12/2014, pdf page 103, Exhibit 4.A, General Plan LUE Amendment (Proposed Project) Average Daily Traffic (ADT).**

I12-14

**Comment:** Are the locations on the Exhibit 4.A for 'vehicles per day' the same locations as depicted on Figure 5.11-2, Study Area Intersections in the 'Transportation and Traffic' section of the SEIR? If the locations are not the same, please explain.

**Traffic and Transportation, Page 5.11-55, second to last paragraph states:**

'Recent analysis completed for OCTA to evaluate potential elimination of the 19th Street Bridge indicated that impacts in Newport Beach were limited to the intersection of Superior Avenue at Coast Highway. This intersection is deficient for General Plan conditions with and without the General Plan LUE Amendment Project. Because the General Plan LUE Amendment proposes only reduced development and minor changes in land use designations in the West Newport area, it is likely that there would be no change in the traffic findings if an analysis is completed without the 19th Street Bridge.'

I12-15

**Comment:** It is my understanding that more than just the Superior Avenue at Coast Highway intersection would be impacted by the removal of the 19<sup>th</sup> Street bridge from the OC Master Plan of

## 2. Response to Comments

Arterial Highways. Please provide the 'recent analysis completed for OCTA' that supports this claim that only Superior at Coast Highway is impacted. I was unable to locate any reference in the Bibliography.

I12-15  
cont'd

**Appendix I – Traffic Report, 3/12/2014, pdf page 104, Exhibit 4.B and Exhibit 4.C, General Plan LUE Amendment (Proposed Project) AM and PM Peak Hour Intersection Volumes.**

I12-16

**Comment:** What is the source of intersection volume data used for intersection 1A, Bluff Road & Coast Highway and 1B, 15<sup>th</sup> Street & Coast Highway for AM and PM exhibits?

Thank you.

Sincerely,

Dorothy Kraus  
10 Wild Goose Court  
Newport Beach, CA 92663

## 2. Response to Comments

### I12. Response to Comments from Dorothy Kraus, dated April 30, 2014.

I12-1 As noted by this commenter, Appendix C was erroneously referenced in the Draft SEIR, and the referenced list of General Plan Amendments and project approvals processed subsequent to the certification of the 2006 General Plan EIR was inadvertently omitted. The list is included as Attachment C of this Final SEIR. Contrary to this commenter's assertion, however, this omission does not result in a CEQA requirement to recirculate the Draft SEIR for review and comment. The conditions that would merit Draft SEIR recirculation are detailed under CEQA Guidelines, Section 15088.5, *Recirculation of an EIR Prior to Certification*:

(a) A lead agency is required to recirculate an EIR when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review under Section 15087 but before certification. As used in this section, the term "information" can include changes in the project or environmental setting as well as additional data or other information. New information added to an EIR is not "significant" unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement. "Significant new information" requiring recirculation includes, for example, a disclosure showing that:

- (1) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.
- (2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.
- (3) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project's proponents decline to adopt it.
- (4) The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded. (*Mountain Lion Coalition v. Fish and Game Com.* (1989) 214 Cal.App.3d 1043)

(b) Recirculation is not required where the new information added to the EIR merely clarifies amplifies or makes insignificant modifications in an adequate EIR. ....

The omission of the General Plan Amendment list did not deprive the public of a meaningful opportunity to comment on the Draft SEIR and does not involve a new significant impact or a substantial increase in the severity of an impact. It does "clarify or amplify" the information in the Draft SEIR, for which recirculation is not required per condition (b) above.

## 2. Response to Comments

- I12-2 As noted by this commenter, the information regarding General Plan Amendments and project approvals that have been processed subsequent to the 2006 General Plan Update are public information, and records for these approvals are publicly available. Moreover, each of these projects was subject to CEQA review. The 2006 General Plan Update, as subsequently updated by approved GPAs and approvals, represents the logical baseline for the proposed project. This information and methodology was not “buried” as alleged by this commenter, but was thoroughly explained in the Draft SEIR. The list was inadvertently omitted and has now been provided in this Final SEIR as Attachment C.

The commenter’s definition for a requested third scenario traffic analysis is not required by CEQA, and it is unclear what meaningful information it would provide. It would not assess the potential impacts of the proposed LUE Amendment, but would provide a historical analysis of projects already approved (and analyzed in previous environmental documents).

- I12-3 As with construction noise, vibration, and air quality impacts, construction traffic is project specific and difficult to speculate on a cumulative, General Plan level. A detailed analysis of construction traffic at this level would not be feasible and would not warrant recirculation of the Draft SEIR per the conditions described in Response I12-1. Construction-related traffic impacts would be analyzed in subsequent project-specific environmental documents. In response to this comment, however, the Draft SEIR has been revised to include a discussion of potential impacts and to disclose the regulatory requirements and standard conditions of approval (e.g., preparation of a construction traffic management plan) that would apply to subsequent projects. This discussion is included in Chapter 3.0, *Draft SEIR Revisions in Response to Written Comments*.

- I12-4 The commenter’s opinion about whether the proposed land use changes are compatible with the character of the existing area is noted. This is not a comment regarding the adequacy of the Draft SEIR and will be forwarded to decision-makers for consideration.

The following discussion addresses the comment regarding a lack of mitigation plans in “light of all the ‘significant and unavoidable’ impacts’ identified” in the Draft SEIR. Each of the Draft SEIR impacts identified as significant and unavoidable is followed by a discussion of mitigation feasibility:

**Greenhouse Gas Emissions:** As concluded in Section 6.0, *Significant Unavoidable Adverse Impacts*, compared to the 2006 General Plan, the proposed project would achieve SCAQMD’s efficiency metric by decreasing GHG emissions on a per capita basis. Moreover, Section 5.4, *Greenhouse Gas Emissions*, details the City’s General Plan Policies and Implementation Actions to reduce GHG emissions and to comply with the California Air Resources Board Scoping Plan. Section 5.7, *Land Use and Planning*, demonstrates General Plan consistency with the RTP/SCS and programs adopted for the purpose of reducing GHG emissions. Nevertheless, as concluded in Section 6.0, as



## 2. Response to Comments

identified by the California Council on Science and Technology, the state cannot meet the 2050 GHG reduction goal without major advances in technology. This significant, unavoidable impact, therefore, is not technically feasible to mitigate to less than significant.

**Noise and Vibration:** The proposed LUE Amendment land use changes were determined to have the potential for significant, unavoidable levels of groundborne vibration related to construction activities. As concluded in Section 6.0, although vibration levels for most construction activities do not require pile driving or rock blasting that can generate high levels of vibration, some projects do require these methods and sometimes cannot be mitigated to less than significant. Since construction equipment for subsequent projects cannot be known at this time, impacts were found to be significant and unavoidable.

**Population and Housing:** The proposed LUE Amendment was determined to have a significant, unavoidable population impact since it would result in an estimated population increase of up to 3,838 persons in comparison to the 2006 General Plan Update (a 3.7 percent increase). This increase would exceed the 2035 SCAG population projects for the City by almost 18 percent. There is no feasible mitigation to reduce the population increase associated with the increase in housing units proposed by the LUE Amendment.

**Transportation and Traffic:** The Draft SEIR concludes that cumulative traffic impacts associated with the LUE Amendment and Airport Settlement Agreement would be potentially significant. Since the DEIR for the Airport Settlement Agreement was not released at the time of the Draft SEIR completion, it could not be determined whether the cumulative traffic impact of these projects would be significant. Since the potential impacts are unknown (e.g., potential impact to specific intersections, etc.), feasible mitigation would also be speculative.

Finally, the Draft SEIR concludes that the proposed LUE Amendment would generate traffic trips that would contribute to impacts at six existing and forecast deficient main line segment of the I-405, SR-73, and SR-55 freeways. The project would also contribute to deficient operations at two I-405 off-ramps. Mitigation for Caltrans facilities is out of the jurisdiction of the City of Newport Beach. (Please also see Response A2-4.)

- I12-5 The Banning Ranch project has been incorporated as adopted. The roadway network includes the General Plan Circulation Element roadway system, consistent with analysis throughout the City of Newport Beach.
- I12-6 Bluff Road at Coast Highway and 15th Street at Coast Highway are included in the current City of Newport Beach General Plan Circulation Element.
- I12-7 The list of ADT V/C ratios exceptions should have the following changes:

## 2. Response to Comments

- Add a second segment along MacArthur Blvd to read: “MacArthur Boulevard between Bonita Canyon Drive and San Joaquin Hills Road.” V/C value is 1.2.
  - Modify the “MacArthur Boulevard between Bison Avenue and San Joaquin Hills Road” to read: “MacArthur Boulevard between Bison Avenue and Bonita Canyon Road.” V/C value is 1.35.
  - Modify the “17th Street east of SR-55 Freeway” to read: “19th Street east of SR-55 Freeway.” V/C value is 1.16.
- I12-8 Study area intersections are generally consistent with the intersections analyzed during the 2006 General Plan update. Irvine intersections were added at the request of the City of Irvine during the NOP process.
- I12-9 Daily roadway segment capacity is shown on Table 1-2 of the Traffic Impact Analysis (Appendix I of the Draft SEIR). These capacities are based on the number of lanes and are a screening tool to evaluate overall vehicular activity levels, subject to more detailed peak hour analysis at key intersections.
- Daily roadway segment analysis is a planning level evaluation of approximate usage over an entire day. The actual calculation involves dividing the daily traffic volume into the daily capacity.
- In the TIA, daily segment analysis is shown on Exhibit 2-H (for existing conditions), Exhibit 3-D (for 2006 General Plan conditions), and Exhibit 4-D (for General Plan LUE Amendment conditions).
- I12-10 Table 2-1 of the TIA and Table 5.11-1 of the Draft SEIR contain the same information. The TIA references count data (actual tubes were placed on the roadways), while the Draft SEIR more generally indicates that these represent existing conditions.
- I12-11 The extended analysis referenced was performed in looking ahead to a possible future Circulation Element update and was not intended for inclusion in this EIR.
- I12-12 The word “citywide” refers to the Table 4-1 land use statistics, which include the entire City of Newport Beach.
- I12-13 Land use codes are included as indicators for use in the NBTM. These land use codes provide the model with a way to identify which trip generation parameters are used.
- I12-14 Yes. Exhibit 4.A has the same locations as Figure 5.11-2.
- I12-15 Further information on the 19th Street bridge (including reference to the analysis performed for OCTA) has been provided in Attachment D of this Final SEIR.

## 2. Response to Comments

I12-16 The traffic volume data was developed from the Newport Beach Traffic Model, Version 3.4, consistent with traffic volumes throughout the TIA. Intersection analysis for these two locations was inadvertently omitted from the TIA, but the intersections are anticipated to experience acceptable operations.

The analysis is summarized for 2006 General Plan or for the LUE Amendment conditions below. The ICU and LOS values are the same for both without and with project conditions, and no impact is found.

ID	Intersection	Traffic Control <sup>4</sup>	Intersection Approach Lanes <sup>1</sup>												Peak Hour			
			Northbound			Southbound			Eastbound			Westbound			ICU (V/C) <sup>2</sup>		LOS <sup>3</sup>	
			L	T	R	L	T	R	L	T	R	L	T	R	AM	PM	AM	PM
1A	Bluff Rd. / Coast Hwy. General Plan Recommended Improvements	<u>TS</u>	0	0	0	<u>2</u>	0	<u>2</u> >	<u>2</u>	3	0	0	3	<u>1</u>	0.82	0.81	D	D
1B	15th St. / Coast Hwy. General Plan Recommended Improvements	<u>TS</u>	0	0	0	<u>2</u>	0	<u>2</u> >	<u>2</u>	3	0	0	3	<u>1</u>	0.84	0.85	D	D

## 2. Response to Comments

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## 2. Response to Comments

LETTER I13 – Debbie Stevens (22 pages)

*Debbie Stevens  
1120 Sea Lane  
Corona Del Mar, CA 92625*

April 30, 2014

Mr. Gregg Ramirez  
Senior Planner  
City of Newport Beach  
100 Civic Center Drive  
Newport Beach, California 92660

**SUBJECT: Comments on NOP for Newport Beach General Plan Land Use  
Element Amendment Draft EIR**

Dear Mr. Ramirez:

I have reviewed the Draft Supplemental EIR (SEIR) for the Newport Beach General Plan Land Use Element (LUE) Amendment. As a resident that lives near Newport Center/Fashion Island, I'm concerned about the concentration of additional development in this portion of the City. Better land use planning would include a more equitable distribution of development throughout the City, especially the newer areas such as Newport Coast which were recently developed to handle the expected increase in residents and businesses, rather than continuing to concentrate additional development in areas with numerous existing commercial/retail areas. My comments on the Draft SEIR are summarized below.

Intro

### **GENERAL COMMENTS THAT APPLY TO THE ENTIRE DOCUMENT**

1. In comments that I provided on the NOP/IS for this project, I recommend that a stand-alone EIR be prepared rather than a supplemental EIR, as it would be less confusing to review and understand the true impacts of the proposed amendments (existing baseline versus the proposed buildout year). Instead a supplemental EIR was prepared. In order to be adequate, the 2006 EIR would need to be updated to today's (2013) environmental setting and then the impacts of the project need to be evaluated and compared to a 2013 baseline. The use of the supplemental EIR has made it very difficult for the general public to understand the project impacts (e.g., traffic impacts – see specific comments below).
2. The use of a supplemental EIR was inappropriate for a number of reasons. CEQA Guidelines §15163 states that a supplement to an EIR is appropriate if "Only minor additions or changes would be necessary to make the previous EIR adequately apply to the project in the changed situation." Minor is not defined in the CEQA Guidelines but is defined by the Merriam-Webster Dictionary as "not very important or valuable, small in number, quantity or extent." The changes envisioned by the LUE Amendment are not unimportant, or small in number, quantity or extent. The Draft SEIR also states that "no

I13-1

I13-2

## 2. Response to Comments

changes with respect to circumstances have required major revisions to the 2006 General Plan EIR.” As explained below, the changes to the General Plan LUE are significant and major modifications, such that an supplement EIR is not appropriate.

- The proposed project includes 18 areas where land use is proposed to be changed (SEIR, Figure 3-3) and is described on seven different maps.
- The changes in land use in Newport Center/Fashion Island would include over 580,000 square feet of additional office/commercial uses than what would be allowed under the 2006 General Plan. The changes in land use near the airport would allow over 330,000 square feet of additional office/commercial use than what would be allowed under the 2006 General Plan. An increase in over 900,000 square feet of office/commercial land use in areas where there is already substantial development and construction is not minor.
- The proposed project includes 30 new land use element policies/goals.
- The SEIR was required to include a greenhouse gas (GHG) analysis which was not included in the 2006 General Plan EIR and this was a major change to the document. The GHG impacts are considered significant so the changes to the SEIR cannot be considered minor.
- The SEIR is over 1,000 pages of text and appendices indicating the significance of the changes. Minor changes to the LUE would not require such detailed analyses.

113-2  
cont'd

It would have been more appropriate for the City to prepare a subsequent EIR, rather than a supplemental EIR. A subsequent EIR is appropriate when there are substantial changes to the project which require major revisions to the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. As discussed above, new significant impacts were identified in the SEIR which included significant GHG impacts. Also, additional traffic impacts associated with the proposed project would increase the severity of previously identified significant traffic impacts (see below for further details). For all of the above reasons, a supplemental EIR was not the appropriate CEQA document for the proposed project.

3. The 2006 General Plan EIR served as “baseline” conditions for the proposed project and the impacts of the proposed Land Use Amendment were considered to be the incremental differences between conditions analyzed in the 2006 General Plan EIR and the proposed amendments. (SEIR, page 1-5). The 2006 General Plan EIR would be appropriate as the No Project Alternative; however, it is not appropriate as the baseline, and the baseline should be the environmental conditions as they existing today (i.e., 2013). Note that the baseline used in the 2006 General Plan EIR was 2002, which is over 12 years ago and would not represent the existing environment.

113-3

As stated in the CEQA Guidelines (§15125), an “EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published . . . This environmental setting will normally constitute the baseline physical conditions by which a Lead Agency determines whether

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an impact is significant.” Numerous court cases have confirmed that this is the appropriate baseline. “Paper plans” cannot serve as baseline. In *EPIC v. County of El Dorado* (1982, 131 Cal. App. 4<sup>th</sup> 273) the court held that the existing physical conditions should be baseline, not an existing plan. The court stated that “(t)he dispositive issue on this appeal is whether the requirements of CEQA are satisfied when the EIRs prepared for use in considering amendments to the county general plan compare the environmental impacts of the proposed amendments to the existing plan rather than to the existing environment. We hold that the EIRs must report on the impact of the proposed plans on the existing environment.” Therefore, the use of the 2006 General Plan EIR is not an appropriate baseline.

A number of other court cases have supported the requirement that the appropriate environmental baseline is the existing environmental conditions at the time that environmental review begins such as *CBE vs. SCAQMD, et al* (March 15, 2010, 48 Cal. 4<sup>th</sup> 310) which stated that the environmental setting should not be based on hypothetical future conditions (e.g., development that has not occurred yet) but should be based on actual conditions. This concept is also supported in *Kenneth F. Fat v. County of Sacramento* (2002, 97 Cal. App. 4<sup>th</sup> 1270) and *Riverwatch v. County of San Diego* (1999, 76 Cal. 4<sup>th</sup> 1428).

This is particularly important as additional development is proposed to be concentrated in Fashion Island. New development has occurred in the Fashion Island area that was not included in the 2006 General Plan, e.g., the new city hall. In order to accurately analyze the impacts of this additional development, an accurate and appropriate baseline is essential, which must be the environment as it exists today (2013) and not 2006 (or 2002).

I13-3  
cont'd

### SPECIFIC COMMENTS ON THE DRAFT SEIR

#### Project Description

4. The SEIR claims that “a Supplemental EIR is not mandated to include an evaluation of project alternatives.” An EIR is required to identify ways to mitigate or avoid the significant effects that a project may have on the environment (Public Resources Code §21002.1). Therefore, an alternatives analysis was required as significant impacts were identified (GHG emissions, population and housing, and traffic).
5. SEIR, Page 4-12. The Draft SEIR states that the cumulative analysis used the projections contained in the adopted General Plan. The EIR needs to discuss how the cumulative impacts where considered for projects that were not included in the 2006 General Plan but have been constructed since that time, e.g., City Hall. Without this information, the EIR is inadequate as it has not considered all past, present, and reasonably foreseeable future projects per CEQA requirements.

I13-4

I13-5

## 2. Response to Comments

### Aesthetics

- |  |       |
|--|-------|
| 6. SEIR Figures 5.1-2 and 5.1-3. The units for the measurement should be included on this figure, e.g., does “18” refer to 18 feet? The applicable planned community text should be included in the EIR as it is impossible to tell from the EIR what the height limitations would be in Fashion Island.   | 113-6 |
| 7. SEIR page 5.1-12, 5.1-13, and 5.1-15. What are the height limitations for 150 and 100 Newport Center Drive properties? The EIR states that the “specific parcel location for development in Newport Center/Fashion Island is unknown at this time, therefore PC standards may or may not apply to the sites selected for development.” Development of buildings could block views from MacArthur Boulevard and Newport Center Dr. as height restrictions “may or may not” apply. The PIMCO Building at 650 Newport Center Drive is 398,846 square feet of floor area and is 20-stories tall (295 feet high). Therefore, the building height associated with a 500,000 square foot building could exceed 20-stories. These aesthetic impacts should be considered significant as Newport Center Drive and MacArthur Boulevard are both designated as coastal view roads. Further, mitigation measures are required to limit development height in Newport Center/Fashion Island. | 113-7 |

### Air Quality

- |   |        |
|---|--------|
| 8. SEIR page 5.2-12, Table 5.2-4. The table contains data on existing emissions but does not include emissions from industrial sources, beach bonfires, and use of pleasure crafts in the harbor. These emissions may not be associated directly with land use, but they are real emission sources to which persons are exposed and must be included in the total daily emissions in order to provide an accurate representation of total baseline emissions within the City.   | 113-8  |
| 9. SEIR Page 5.2-16, localized air quality impact. The logic used to eliminate the need to evaluate CO hotspots from evaluation in the EIR is not correct. The fact that the Basin is in attainment for CO does not mean that potential air quality impacts should be ignored. The SCAQMD requires analysis of all criteria pollutants whether the Basin is in attainment or not, in part so that projects will not cause an increase in pollutants that could lead the Basin out of compliance. The SCAQMD requires that CO hotspots be evaluated where significant traffic impacts are identified (LOS E or F). Significant traffic impacts or LOS impacts of E or F were identified at several intersections including Irvine Avenue/University Drive, Von Karman Ave/Alton Parkway, and MacArthur Boulevard Ford Drive. Traffic impacts could result in localized impacts at areas adjacent to these intersections and a CO hotspots analysis at the intersections with significant traffic impacts is required as part of the EIR, especially since residents are located adjacent to these intersections. | 113-9  |
| 10. SEIR Page 5.2-18, last paragraph. The EIR states that “because the incremental increase in criteria air pollutants from operation of the proposed project would not exceed SCAQMD’s regional significance criteria, impacts associated with the General Plan LUE  | 113-10 |



## 2. Response to Comments

Amendment are less than significant.” However, no emission calculations have been provided to back up this statement. Table 5.2-8 recognizes that there would be an increase in VMT of 56,599, yet the EIR assumes there would be no significant increase in emissions, which is not correct or credible. CALEEMOD for a 500,000 square-foot commercial building was completed and indicated that operational emissions for that one building alone would be as follows: 23 lbs/day of ROG, 21.7 lbs/day of NOx, 106 lbs/day of CO, 0.5 lb/day of SOx, 38.2 lbs/day of PM10 and 10.6 lbs/day of PM2.5 (see Attachment A). Assuming the full increase in commercial/office buildings of 910,000 square feet would result in an estimated 69.5 lbs/day of PM10 (compared to a significance threshold of 150 lbs/day) and 39.4 lbs/day of NOx (compared to a significance threshold of 55 lbs/day). While these commercial buildings would be less than significance the addition of 500 residential units and 170 hotel rooms would generate NOx and PM10/PM2.5 emissions that, combined with the office building, would exceed the air quality regional significance thresholds.

I13-10  
cont'd

11. The SEIR concludes that construction emissions will be below significance thresholds for all criteria pollutants during Project construction. However, the SEIR has not completed a Localized Significance Threshold (LST) analysis. The SCAQMD developed an LST Methodology to be used by public agencies to determine whether a project may result in significant adverse localized impacts.<sup>1</sup> The LSTs represent maximum emissions from a project that will not cause or contribute to an exceedance of the most stringent applicable federal or state ambient air quality standard. LSTs are derived on the location of the activity (i.e., source/receptor area); the emission rate of the applicable criteria pollutant; and the distance to the nearest exposed individual. The SEIR must also analyze the localized air quality impacts associated with construction activities. The LUE amendment would move development from other portions of the City and concentrate them in Fashion Island as well as near the airport. The areas adjacent to these construction activities would be impacted by emissions associated with construction equipment. An LST analysis for the proposed project must be provided in the EIR. Alternatively, construction emissions are deemed significant and mitigation measures would be required.

I13-11

12. SEIR Page 5.2-26 and 5.2-27, Sensitive Receptors. The mitigation measure requires an HRA be prepared and suggests mitigation measures such as appropriate location for air intakes, and that heating, ventilation and air conditioning systems be provided with MERV filters. Such mitigation measures do not mitigate outdoor exposures and would not be sufficient to protect sensitive receptors from exposure. For this reason, Impact 5.2-4 would remain significant after mitigation.

I13-12

### Greenhouse Gas Impacts

13. SEIR Page 5.4-4 and Table 5.4-2, Potential Climate Change Impact for California. One of the impacts from climate change and global warming would be an increase in sea level rise and increased coastal flooding. If this is the case as the EIR suggests, portions of

I13-13

<sup>1</sup> See SCAQMD, Final Localized Significance Threshold Methodology (June 2003, Revised July 2008).

## 2. Response to Comments

Newport Beach would be significantly impacted including areas adjacent to the coast. Many coastal jurisdictions have begun the planning process for such activities which is something that should be included in this EIR. Areas of potential water inundation should be developed so that the City can begin planning for the impacts of global warming which are substantial, in a City with extensive properties along the coast.

113-3  
cont'd

14. Page 5.4-13. The SEIR has used inappropriate significance thresholds and has misrepresented the SCAQMD's significance threshold. I was part of SCAQMD's GHG CEQA Significance Threshold Working Group and I am familiar with the SCAQMD's GHG thresholds. The SCAQMD approved a Tiered approach to determining GHG significance thresholds on December 5, 2008. The only "bright-line" significance threshold that was approved by the SCAQMD was 10,000 MTCO<sub>2</sub>e for project under their jurisdiction.<sup>2</sup> (see <http://www.aqmd.gov/hb/2008/December/081231a.htm> on December 5, 2008.) The SCAQMD has not proposed a threshold of 3,000 MTCO<sub>2</sub>e for all land use types or any other threshold and did not recommend any specific GHG significance thresholds for residential/commercial sectors and has placed the discussion of these thresholds on hold. The SCAQMD has also not proposed an efficiency target of 6.6 MTCO<sub>2</sub>e/year/SP for 2020 as indicated in the SEIR. This information is incorrect and can be verified on the SCAQMD's web page identified above. The only agency that has proposed this efficiency target is the Bay Area Air Quality Management District (BAAQMD).

113-14

On June 2, 2010, the BAAQMD adopted thresholds of significance to assist in the review of projects under the CEQA. The efficiency target of 6.6 MTCO<sub>2</sub>e/year/SP was included in the BAAQMD's significance thresholds. These thresholds were designed to establish the level at which the BAAQMD believed air pollution emissions would cause significant environmental impacts under CEQA and were posted on the BAAQMD's website and included in the BAAQMD's updated CEQA Guidelines (updated May 2012). On March 5, 2012 the Alameda County Superior Court issued a judgment finding that the BAAQMD had failed to comply with CEQA when it adopted the CEQA thresholds. The court did not determine whether the thresholds were valid on the merits, but found that the adoption of the thresholds was a project under CEQA. The court issued a writ of mandate ordering the BAAQMD to set aside the CEQA thresholds and cease dissemination of them until the BAAQMD had complied with CEQA. The BAAQMD has appealed the Alameda County Superior Court's decision. The Court of Appeal of the State of California, First Appellate District, reversed the trial court's decision. The Court of Appeal's decision was appealed to the California Supreme Court, which granted limited review, and the matter is currently pending before the Supreme Court.

In view of the trial court's order which remains in place pending final resolution of the case, the BAAQMD is no longer recommending that the CEQA thresholds (including the 6.6 MTCO<sub>2</sub>e/year/SP) be used as a generally applicable measure of a project's significant air quality impacts. The BAAQMD has been ordered to set aside the CEQA thresholds and is no longer recommending that these thresholds be used as a general measure of project's significant air quality impacts. Based on the fact that the GHG

<sup>2</sup> See <http://www.aqmd.gov/hb/2008/December/081231a.htm> on December 5, 2008.

## 2. Response to Comments

threshold used in the SEIR is being reviewed by the Supreme Court, it is inappropriate to use them in the LUE Amendment SEIR and a new revised analysis must be prepared.

The SEIR should instead use the SCAQMD approved threshold of 10,000 MTCO<sub>2</sub>e or provide justification for the use of an alternative threshold for the proposed project. As shown in Table 5.4-5 of the SEIR, the proposed project would generate 1,236,171 MTCO<sub>2</sub>e and these GHG emissions are clearly significant. Note that it would also be significant if it was compared to the GHG emission changes from the 2006 General Plan. The SEIR needs to be revised and recirculated to include an appropriate significance threshold and accurate discussion of GHG impacts.

I13-14  
cont'd

### Hazards and Hazardous Materials

15. SEIR Page 5.5-17. The SEIR acknowledges that construction activities associated with implementation of the proposed project could result in the release of hazardous materials as construction activities could take place at sites that are potentially contaminated. There is evidence that workers will be exposed to contamination during construction activities. Construction workers involved in foundation work and trenching may be exposed to hazardous chemicals (e.g., gasoline and diesel contaminants) through dermal contact and inhalation of vapors which is potentially a significant impact. Gasoline and diesel contamination is common from gasoline stations and contain benzene, a well-known human carcinogen. The EIR fails to disclose the potential for construction workers to be exposed to contaminants through dermal contact and how exposure would be minimized.

I13-15

16. SEIR Page 5.5-41. The level of significance before mitigation must include an discussion of worker exposure.

I13-16

### Traffic and Transportation

17. SEIR Page 5.11-1 indicates that the General Plan Land Use Element Amendment Traffic Impact Analysis is included as Appendix J. According to the Table of Contents, there is no Appendix J in the SEIR and none was provided online.

I13-17

18. The potential impacts of traffic have been one of the biggest concerns to the local residents as evidenced in recent public workshops and forums. This is one of the most difficult sections to understand the assumptions used to develop the baseline conditions and determine the potential impacts in the SEIR. This is largely because many of the assumptions and data used in the traffic analyses are not included in the SEIR.

I13-18

19. The SEIR should have compared the existing traffic conditions (2013) to the proposed project conditions to provide the public with a clear view of the proposed project impacts. This would have avoided many of the confusions and concerns expressed during public workshops and forums. For example, nowhere in the SEIR does it discuss traffic from projects that were not considered in the 2006 General Plan but have been constructed since that time, e.g., City Hall or the new PIMCO building. Therefore, the conclusion is

I13-19

## 2. Response to Comments

that the cumulative traffic impacts have been ignored and not all past, present, and reasonably foreseeable future projects have been included in the traffic analysis as required by CEQA Guidelines §15130. While projections from a General Plan are an acceptable way to evaluate cumulative projects, those projections must be accurate. Without the inclusion of projects that were developed and built outside of the General Plan, the cumulative impacts are not adequate.

113-19  
cont'd

20. SEIR Table 5.11-6, page 5.11-25. The trips generation rates used for each land use must be included in the SEIR for full public disclosure of the project's impact. Based on the Institute of Transportation Engineers (ITE) Trip Generation Manual, a General Office Building would generate an average of 1.55 trips per 1,000 square feet of floor during the am peak hour (a total of about 775 trips for a 500,000 square-foot building) and about 1.49 trips per 1,000 square feet of floor during the pm peak hour (a total of about 745 for a 500,000 square-foot building). Table 5.11-6 reports for Newport Center that the proposed project would result in an increase of a total of 496 trips in bound during the morning peak hour for all new land uses including office buildings, residential units, and hotels (not just the 500,000 square feet of additional office space). Table 5.11-6 also reports for Newport Center that the proposed project would result in an increase of a total of 449 trips out bound during the evening peak hour for all new land uses (not just the 500,000 square feet of additional office space). The average daily trip ends for a 500,000 square-foot office building would be about 5,500 ADTs alone (not including additional residential or hotel uses). Therefore, the trip generation rates used in the SEIR have been underreported. The SEIR should be revised to include appropriate trip generation rates for all land uses and those trip generation rates and related assumptions should be included in the SEIR.

113-20

21. SEIR Table 5.11-6, page 5.11-25. The numbers in the table should be identified as peak one-hour trips. This table implies that there will be a decrease in peak ADT at certain locations in the City. It should be noted that in many cases these trips are future trips and have not occurred. So to imply that there will be a decrease in traffic that has never occurred is misrepresenting the project impacts, (i.e., some of the negative numbers in Table 5.11-6 never happened in the first place, and the ADT increases in some areas (Fashion Island/Newport Center) are much higher than represented). Again, this table should include a comparison of existing 2013 traffic with the proposed project's total generated traffic.

113-21

22. SEIR Table 5.11-9, Table 5.11-10 and Table 5.11-11. This table should compare existing 2013 baseline to the proposed project to accurately evaluate true project impacts.

113-22

23. SEIR Table 5.11-6 indicates that the total ADT for the proposed project is 8,211. Table 5.2-8 indicates that the difference between the 2006 General Plan and LUE Amendment is 56,559 ADT. These numbers conflict with each other and there's a huge discrepancy between the two. This type of information makes it difficult for the public to determine which are correct without the appropriate back up data.

113-23

## 2. Response to Comments

The SEIR needs to be revised and recirculated to respond to the deficiencies outlined above.  
Thank you for your consideration.



Debbie Bright Stevens

## 2. Response to Comments

**ATTACHMENT A**

## 2. Response to Comments

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### Office Building Orange County, Winter

#### 1.0 Project Characteristics

##### 1.1 Land Usage

Land Uses	Size	Metric	Lot Acreage	Floor Surface Area	Population
General Office Building	500.00	1000sqft	11.48	500,000.00	0

##### 1.2 Other Project Characteristics

Urbanization	Urban	Wind Speed (m/s)	2.2	Precipitation Freq (Days)	30
Climate Zone	8			Operational Year	2035

Utility Company Southern California Edison

CO2 Intensity (lb/MWhr)	530.89	CH4 Intensity (lb/MWhr)	0.029	N2O Intensity (lb/MWhr)	0.006
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#### 1.3 User Entered Comments & Non-Default Data

Project Characteristics -

Land Use -

Construction Off-road Equipment Mitigation -

Mobile Land Use Mitigation -

Construction Phase - no construction

Off-road Equipment -

Table Name	Column Name	Default Value	New Value
tblConstructionPhase	NumDays	20.00	0.00
tblProjectCharacteristics	OperationalYear	2014	2035

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### 2.0 Emissions Summary

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio-CO2	NBio-CO2	Total CO2	CH4	N2O	CO2e
Percent Reduction	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00



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### 2.2 Overall Operational Unmitigated Operational

Category	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bldg-CO2	NBldg-CO2	Total CO2	CH4	N2O	CO2e
lb/day																
Area	13.0793	4.8000e-004	0.0508	0.0000		1.8000e-004	1.8000e-004		1.8000e-004	1.8000e-004		0.1094	0.1094	2.8000e-004		0.1154
Energy	0.1417	1.2879	1.0819	7.7300e-003		0.0979	0.0979		0.0979	0.0979		1,545.5278	1,545.5278	0.0296	0.0283	1,554.9336
Mobile	10.0921	20.4509	105.0215	0.5158	37.5403	0.5665	38.1087	10.0244	0.5251	10.5494		36,061.8232	36,061.8232	1.0030		36,082.8855
<b>Total</b>	<b>23.3131</b>	<b>21.7393</b>	<b>106.1542</b>	<b>0.5236</b>	<b>37.5403</b>	<b>0.6665</b>	<b>38.2068</b>	<b>10.0244</b>	<b>0.6231</b>	<b>10.6475</b>		<b>37,607.4605</b>	<b>37,607.4605</b>	<b>1.0329</b>	<b>0.0283</b>	<b>37,637.9345</b>

### Mitigated Operational

Category	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bldg-CO2	NBldg-CO2	Total CO2	CH4	N2O	CO2e
lb/day																
Area	13.0793	4.8000e-004	0.0508	0.0000		1.8000e-004	1.8000e-004		1.8000e-004	1.8000e-004		0.1094	0.1094	2.8000e-004		0.1154
Energy	0.1417	1.2879	1.0819	7.7300e-003		0.0979	0.0979		0.0979	0.0979		1,545.5278	1,545.5278	0.0296	0.0283	1,554.9336
Mobile	10.0921	20.4509	105.0215	0.5158	37.5403	0.5665	38.1087	10.0244	0.5251	10.5494		36,061.8232	36,061.8232	1.0030		36,082.8855
<b>Total</b>	<b>23.3131</b>	<b>21.7393</b>	<b>106.1542</b>	<b>0.5236</b>	<b>37.5403</b>	<b>0.6665</b>	<b>38.2068</b>	<b>10.0244</b>	<b>0.6231</b>	<b>10.6475</b>		<b>37,607.4605</b>	<b>37,607.4605</b>	<b>1.0329</b>	<b>0.0283</b>	<b>37,637.9345</b>

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	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio-CO2	NBio-CO2	Total CO2	CH4	N2O	CO2e
Percent Reduction	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

### 3.0 Construction Detail

#### Construction Phase

Phase Number	Phase Name	Phase Type	Start Date	End Date	Num Days Week	Num Days	Phase Description
1	Demolition		1/1/2015	12/31/2014	5	0	no

Acres of Grading (Site Preparation Phase): 0

Acres of Grading (Grading Phase): 0

Acres of Paving: 0

Residential Indoor: 0; Residential Outdoor: 0; Non-Residential Indoor: 0; Non-Residential Outdoor: 0 (Architectural Coating – sqft)

#### OffRoad Equipment

Phase Name	Offroad Equipment Type	Amount	Usage Hours	Horse Power	Load Factor
Concrete/Industrial Saws		1	8.00	81	0.73
Excavators		3	8.00	182	0.38
Rubber Tired Dozers		2	8.00	255	0.40

#### Trips and VMT

Phase Name	Offroad Equipment Count	Worker Trip Number	Vendor Trip Number	Hauling Trip Number	Worker Trip Length	Vendor Trip Length	Hauling Trip Length	Worker Vehicle Class	Vendor Vehicle Class	Hauling Vehicle Class
none	6	15.00	0.00	0.00	14.70	6.90	20.00	LD_Mix	HDT_Mix	HHDT

### 3.1 Mitigation Measures Construction

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Water Exposed Area  
Reduce Vehicle Speed on Unpaved Roads  
Clean Paved Roads

### 4.0 Operational Detail - Mobile

#### 4.1 Mitigation Measures Mobile

Category	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Biogenic CO2	NBio-CO2	Total CO2	CH4	N2O	CO2e
Unmitigated	10.0921	20.4509	105.0215	0.5158	37.5403	0.5685	38.1087	10.0244	0.5251	10.5494	36,061.82	32	36,061.82	1,0030		36,092.88
Mitigated	10.0921	20.4509	105.0215	0.5158	37.5403	0.5685	38.1087	10.0244	0.5251	10.5494	36,061.82	32	36,061.82	1,0030		36,092.88

#### 4.2 Trip Summary Information

Land Use	Average Daily Trip Rate			Unmitigated Annual VMT	Mitigated Annual VMT
	Weekday	Saturday	Sunday		
General Office Building	5,505.00	1,185.00	490.00	13,438.094	13,438.094
Total	5,505.00	1,185.00	490.00	13,438.094	13,438.094

#### 4.3 Trip Type Information

Land Use	Miles			Trip %			Trip Purpose %		
	H-W or C-W	H-S or C-C	H-O or C-NW	H-W or C-W	H-S or C-C	H-O or C-NW	Primary	Diverted	Pass-by
General Office Building	16.80	8.40	6.90	33.00	48.00	19.00	77	19	4

## 2. Response to Comments

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LDA	LDT1	LDT2	MDV	LHD1	LHD2	MHD	HHD	OBUS	UBUS	MCY	SBUS	MH
0.477544	0.059603	0.204041	0.158957	0.043561	0.006299	0.017331	0.021321	0.001547	0.002362	0.003004	0.000478	0.003811

### 5.0 Energy Detail

Historical Energy Use: N

### 5.1 Mitigation Measures Energy

Category	lb/day										lb/day			
	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio-CO2	NBio-CO2	Total CO2	CO2e
Natural Gas Mitigated	0.1417	1.2879	1.0619	7.7300e-003		0.0979	0.0979		0.0979	0.0979		1,545,527.8	1,545,527.8	1,554,933.6
Natural Gas Unmitigated	0.1417	1.2879	1.0619	7.7300e-003		0.0979	0.0979		0.0979	0.0979		1,545,527.8	1,545,527.8	1,554,933.6

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### 5.2 Energy by Land Use - NaturalGas Unmitigated

Land Use	NaturalGas Use kBtu/Yr	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
General Office Building	13137	0.1417	1.2879	1.0819	7.7300e-003		0.0979	0.0979		0.0979	0.0979		1,545.5278	1,545.5278	0.0296	0.0283	1,554.9336
Total		0.1417	1.2879	1.0819	7.7300e-003		0.0979	0.0979		0.0979	0.0979		1,545.5278	1,545.5278	0.0296	0.0283	1,554.9336

### Mitigated

Land Use	NaturalGas Use kBtu/Yr	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
General Office Building	13137	0.1417	1.2879	1.0819	7.7300e-003		0.0979	0.0979		0.0979	0.0979		1,545.5278	1,545.5278	0.0296	0.0283	1,554.9336
Total		0.1417	1.2879	1.0819	7.7300e-003		0.0979	0.0979		0.0979	0.0979		1,545.5278	1,545.5278	0.0296	0.0283	1,554.9336

### 6.0 Area Detail

#### 6.1 Mitigation Measures Area

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Category	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio-CO2	NBio-CO2	Total CO2	CH4	N2O	CO2e
Unmitigated	13.0793	4.6000e-004	0.0508	0.0000		1.8000e-004	1.8000e-004		1.8000e-004	1.8000e-004		0.1094	0.1094	2.8000e-004		0.1154
Mitigated	13.0793	4.6000e-004	0.0508	0.0000		1.8000e-004	1.8000e-004		1.8000e-004	1.8000e-004		0.1094	0.1094	2.8000e-004		0.1154

### 6.2 Area by SubCategory

#### Unmitigated

SubCategory	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio-CO2	NBio-CO2	Total CO2	CH4	N2O	CO2e
Architectural Coating	3.1747					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Consumer Products	9.9000					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Landscaping	4.6400e-003	4.6000e-004	0.0508	0.0000		1.8000e-004	1.8000e-004		1.8000e-004	1.8000e-004		0.1094	0.1094	2.8000e-004		0.1154
Total	13.0793	4.6000e-004	0.0508	0.0000		1.8000e-004	1.8000e-004		1.8000e-004	1.8000e-004		0.1094	0.1094	2.8000e-004		0.1154

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### 6.2 Area by SubCategory

#### Mitigated

SubCategory	COG	NOX	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bis-CO2	NBl6-CO2	Total CO2	CH4	N2O	CO2e
lb/day																
Architectural Coating	3.1747				0.0000	0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Consumer Products	9.9000				0.0000	0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Landscaping	4.6400e-003	4.6000e-004	0.0500	0.0000	1.8000e-004	1.8000e-004	1.8000e-004		1.8000e-004	1.8000e-004		0.1094	0.1094	2.8000e-004		0.1194
Total	13.0793	4.6000e-004	0.0508	0.0000	1.8000e-004	1.8000e-004	1.8000e-004		1.8000e-004	1.8000e-004		0.1094	0.1094	2.8000e-004		0.1194

### 7.0 Water Detail

#### 7.1 Mitigation Measures Water

### 8.0 Waste Detail

#### 8.1 Mitigation Measures Waste

### 9.0 Operational Offroad

Equipment Type	Number	Hours/Day	Days/Year	Horse Power	Load Factor	Fuel Type
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### 10.0 Vegetation

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## 2. Response to Comments

### I13. Response to Comments from Debbie Stevens, dated April 30, 2014.

I13-1 Comment acknowledged. Draft SEIR, Section 1.2.1, *Type and Purpose of This Draft EIR*, details the use of a Supplemental EIR for the proposed LUE Amendment. As described under *Approach/Definition of Baseline* of this section, the Draft SEIR analyzes the incremental impacts between the approved 2006 General Plan and the 2006 General Plan upon implementation of the proposed amendment to the Land Use Element. As noted in the referenced section, “The environmental setting of each topical section provides an update of existing conditions and changes in circumstances since certification of the 2006 General Plan EIR. The incremental impact of the General Plan LUE Amendment is assessed relative to any change in existing conditions.” As recommended by this commenter, the analysis already does assess the impacts relative to existing conditions.

.I13-2 The criteria for a Supplemental EIR as quoted in this comment (CEQA Guidelines Section 15163) is not related to the “additions or changes” necessary to make the previous EIR adequate. The eligibility for a project to be processed with a Supplemental EIR is not based on the scale or magnitude of the proposed changes. The commenter is correct in noting that the proposed project would result in new significant impacts. That is a trigger to require either a Subsequent or Supplemental EIR. Often, if a project does not result in new significant impacts, the project would be eligible for an EIR Addendum.

The commenter mentions that the Draft SEIR identifies significant GHG impacts. As discussed in the Draft SEIR, GHG emissions were not addressed in the 2006 General Plan Update, which predated this requirement, and GHG emissions would also have been significant for that Plan. Also, it is acknowledged that the LUE Amendment results in other new significant impacts, including traffic impacts. The involvement of new significant impacts or an increase in severity of impacts does not preclude preparation of a Supplemental EIR; it is part of the definition that triggers either a subsequent or supplement to an EIR.

I13-3 The incremental impacts between buildout of the 2006 General Plan Update and buildout of the General Plan as proposed to be modified by LUE Amendment are assessed relative to existing conditions in the Draft SEIR. The 2006 General Plan is the “baseline” in terms of determining the incremental or net impacts in comparison to the General Plan as approved. The environmental setting/existing conditions are updated for each topical section. The net impacts of the project are assessed against the change in conditions since the 2006 General Plan. For example, updated traffic counts for 2013 and existing intersection level of services analysis are included in the Urban Crossroads traffic study, Draft SEIR Appendix I (see Table 2-1, City of Newport Beach Roadway Segment ADT Counts; Table 2-2, City of Irvine Roadway Segment ADT Counts; Table 2-4, Existing Conditions Intersection Operations Analysis Summary, etc.). The forecasts

## 2. Response to Comments

are developed using the existing count data in combination with existing modeled data and future modeled data. For traffic, the future growth is applied to existing (on the ground) conditions.

Similarly, the impact analysis for other topical areas, for example, public services, is based on an update of existing conditions. Information has been updated as of the initiation of the proposed project (e.g., conditions at the time of the Notice of Preparation), including responses from service providers regarding schools, fire and police services, water providers, wastewater services, etc. These responses are included in Draft SEIR Appendix H, *Service Provider Responses*. Therefore, contrary to this commenter's understanding, 2006 General Plan EIR information does not serve as "existing conditions" for analysis for the project's impacts.

Note also that the analysis incorporates General Plan Amendments and project approvals (including the new City Hall) that occurred subsequent to the 2006 General Plan approval. The list of "Post-2006 General Plan Amendments" is provided in Attachment C of this Final SEIR.

I13-4 A Supplemental EIR is required to "contain only the information necessary to make the previous EIR adequate for the project as revised." The City concurred with the commenter that it was appropriate to evaluate the potential of project alternatives to reduce or eliminate significant impacts. The 2006 General Plan Update EIR alternatives also serve as part of the entire environmental review of the General Plan Update and LUE Amendment.

I13-5 As noted, the approach to cumulative analysis for the proposed project is summarized in Section 4.4 of the Draft SEIR. Method "B" was used, which relies on "summary of projections contained in an adopted General Plan or related planning document designed to evaluate regional or area-wide conditions." The 2006 General Plan information was updated to incorporate General Plan Amendments and other project approvals since approval of the 2006 General Plan (see Attachment C to this Final SEIR). Please also refer to response I13-19 regarding projects included in the traffic analysis.

I13-6 The units of measurements (feet) are included on revised Figures 5.1-2, *Planned Communities within Newport Center/Fashion Island*, and 5.1-3, *Planned Communities within Airport Area*, in Section 3.3, *Revised and New Figures*, of this Final SEIR.

Maximum permitted building heights in subareas with proposed increases in development capacity and/or changes in land use designations (including Newport Center/Fashion Island) are detailed in Table 5.5-9, *Existing Maximum Permitted Building Heights* of Section 5.5, *Hazards and Hazardous Materials*, of the Draft SEIR. For full text of the applicable planned communities within Newport Center/Fashion Island, refer to the City's website at: <http://www.newportbeachca.gov/index.aspx?page=1869>.

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I13-7 According to Table 5.5-9, *Existing Maximum Permitted Building Heights* of Section 5.5, *Hazards and Hazardous Materials* in the Draft SEIR and the City of Newport Beach Municipal Code Section 20.30.060(C)(2)(d), height limitations for 100 and 150 Newport Center Drive are 32 feet (for flat roof) and 37 feet (for sloped roof), or 50 feet (for flat roof) and 55 feet (with sloped roof) with discretionary approval.

The PIMCO Building—398,846 square feet and 295 feet high—is at 650 Newport Center Drive and falls within Planned Community 56 – North Newport Center (PC-56). The maximum permitted height for Block 600 of PC 56 is 295 feet. Thus, the PIMCO Building height complies with existing regulations.

Depending on where the proposed 500,000-square-foot building is implemented within Newport Center/Fashion Island, different height restrictions would apply. Section 20.20.060(C)(2)(d) of the City's municipal code establishes citywide height limits based on land uses; however, if development occurs within a planned community, height limits would be regulated by the respective planned community's development standards. Thus, coastal views from Newport Center Drive and MacArthur Boulevard would not be affected by proposed developments in Newport Center/Fashion Island.

I13-8 The Draft SEIR evaluates emissions generated by the proposed project. Consequently, emissions that are not associated with the proposed project, such as industrial sources, beach bonfires, and use of pleasure crafts, are not identified as part of the community land use emissions inventory. Baseline emissions for the Draft SEIR are the emissions generated at buildout of the 2006 General Plan. It should be noted that for GHG emissions, the South Coast Air Quality Management District (SCAQMD) does not have guidance regarding preparation of community GHG emissions inventories. Consequently, the methodology used to determine GHG emissions associated with the proposed project defers to guidance released by ICLEI, the Bay Area Air Quality Management District (BAAQMD), and the Association of Environmental Professionals (AEP) Climate Change Committee. The GHG emissions inventory includes the mandatory GHG emissions sectors recommended by these agencies/organizations: Transportation, Energy Use, Water Use, Solid Waste Disposal, and Area Sources.

The inventory was based on emissions within the City's jurisdictional control. Emissions from industrial (permitted) sources are under the control of SCAQMD. Future sources of emissions would be required to obtain permits from SCAQMD, and it is speculative to determine the type and quantities of emissions that would occur from these industrial facilities (CEQA Guidelines Section 15145).

Emissions from bonfires are based on the presence of the beach that draws visitors from areas throughout the South Coast Air Basin (SoCAB). There is no data collected by the City, SCAQMD, or the California Air Resources Board (CARB) on annual, daily average or peak use of fire pits in Newport Beach; therefore the mass emissions from

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bonfire use at the beach are speculative. Information on the amount of emissions produced by one fire pit and concentrations of emissions from beach bonfire activities has been documented by SCAQMD.<sup>1</sup> Based on surveys conducted by SCAQMD in Newport and Huntington Beach, SCAQMD adopted amendments to SCAQMD Rule 444. However, the beach is not a land use designation that is affected by the General Plan or the proposed project. The amendments to the General Plan have no effect on the magnitude of emissions generated by bonfires at the beach and are not an environmental impact caused by the project. In addition, for GHG emissions, bonfires are biogenic sources and not anthropogenic sources of GHG emissions, and thus inclusion in a GHG emissions inventory is optional.

As identified above, marine sources of emissions (pleasure craft) are not within the purview of the proposed project. Based on guidance for community inventories, these emissions are not included in the emissions inventory for a land use development project. There is no emissions data compiled by the City, SCAQMD, or the California Air Resources Board regarding use of pleasure craft in Newport Harbor. Therefore, inclusion of this emissions source in the community inventory would be speculative. Further, the proposed project does not affect the number of boat slips within the City of Newport Beach and therefore the magnitude of emissions generated by pleasure craft. Consequently, this is not an environmental impact caused by the project.

- I13-9      The commenter is incorrect. The methodology used to qualitatively evaluate carbon monoxide (CO) hotspots has been generally accepted by SCAQMD. This qualitative assessment has been included in several EIRs that were submitted to SCAQMD and they have not objected to use of this methodology to qualitatively assess CO hotspots. The SoCAB is designated under both the state and federal ambient air quality standards (AAQS) as in attainment for carbon monoxide, meaning there have been no recorded exceedences for more than 10 years at an intersection/area exceeding the AAQS. With the turnover of older vehicles, introduction of cleaner fuels, and implementation of control technology on industrial facilities, CO concentrations in the state have steadily declined. Moreover, as described in the EIR, based on modeling conducted by BAAQMD and under existing and future vehicle emission rates, a project would have to increase traffic volumes at a single intersection by more than 44,000 vehicles per hour—or 24,000 vehicles per hour where vertical and/or horizontal air does not mix—in order to generate a significant CO concentrations. Based on this evidence and on the fact that to our knowledge, no CEQA project has shown a significant CO hotspot impact in the last 10+ years in the state, and also, that CO hotspot modeling is not requested by SCAQMD, CO hotspot analyses were not warranted for the proposed project and impacts are less than significant.

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<sup>1</sup> <http://www.aqmd.gov/prdas/beachfiremonitoring/homepage.html>.

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I13-10 The reference on page 5.2-18, “the incremental increase in criteria air pollutants from operation of the proposed project would not exceed SCAQMD’s regional significance criteria” is based on the emissions calculations included in Appendix E of the Draft SEIR and shown in Table 5.2-9, *Maximum Daily Criteria Air Pollutant Emissions Summary*. Consequently, the commenter is incorrect that no emissions calculations have been provided to back up this statement.

The commenter incorrectly compares daily vehicle miles traveled (VMT) increases to the incremental increase in air quality impacts associated the proposed project. Table 5.2-8 shows that compared to the 2006 General Plan the proposed project would increase VMT by 56,599. The CalEEMod run provided by the commenter for a 50,000-square-foot commercial building, using CalEEMod defaults, is not applicable to the proposed project. Modeling was conducted for the 2006 General Plan and the proposed project in Table 5.2-9 using CalEEMod and the California Air Resources Board’s (CARB) EMFAC2011 model. As identified in the table, the transportation sector emissions were based on the VMT provided by Urban Crossroads using the Orange County Transportation Authority’s (OCTA) regional transportation model. The VMT provided by Urban Crossroads using the regional transportation model takes into account the relationship between land uses within the City and Orange County; therefore, unlike CalEEMod defaults, it is sensitive to how changes in land uses in the City affect VMT. Consequently, the air quality and GHG inventory prepared for the General Plan more accurately depicts the City’s community transportation sector emissions. The inventory for the 2006 General Plan and the General Plan LUE Amendment (proposed project) show that the incremental increase in criteria air pollutant emissions compared to the 2006 General Plan would not exceed the SCAQMD’s regional significance thresholds. Therefore, the proposed project would not result in a substantial increase in magnitude in emissions compared to the 2006 General Plan.

I13-11 The commenter is incorrect that the Draft SEIR concludes that construction emissions would be below the significance thresholds for criteria air pollutants during construction. Like the operational emissions analysis, the Draft SEIR compares criteria air pollutants generated by land uses associated with the 2006 General Plan and land uses associated with the General Plan LUE Amendment (proposed project). Impact 5.2-2 clearly states “that construction activities associated with the proposed project would generate short-term emissions in exceedance of SCAQMD’s threshold criteria; however, the incremental change associated with the proposed project would be less than significant.” This impact addresses both CEQA Guidelines Appendix G criteria for AQ-2 (project-level), AQ-3 (cumulative), and AQ-4 (localized).

It should be noted that SCAQMD’s localized significance thresholds (LST) methodology clearly states that the localized emissions are not applicable for general plans (SCAQMD 2008). A quantified analysis of LSTs would be speculative and is not feasible at the general plan level. Pages 5.2-19 through 5.2-20 of the Draft SEIR state that for broad-

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based General Plan LUE Amendment, it is not possible to determine whether the scale and phasing of individual projects would exceed SCAQMD's short-term regional or localized construction emissions thresholds. This statement is consistent with CEQA Guidelines Section 15145, which states:

If, after thorough investigation, a Lead Agency finds that a particular impact is too speculative for evaluation, the agency should note its conclusion and terminate discussion of the impact.

Despite this, the Draft SEIR concludes that because of the likely scale and extent of construction activities pursuant to the future development anticipated under the General Plan LUE Amendment, at least some projects would likely continue to exceed the relevant SCAQMD thresholds.

The Draft SEIR analyzed both regional and localized construction emissions impacts qualitatively under Impact 5.2-2 in accordance with SCAQMD's guidance for general plan level projects. Future development projects in the Fashion Island and Airport Area would be required to evaluate localized construction emissions in accordance with CEQA and SCAQMD's project-level LST methodology based on the construction information available at the time of the analysis (construction schedule, preliminary construction list, demolition volumes, soil haul quantities, etc.). Mitigation measures for these individual projects would be developed based on the potential for impacts and the unique characteristics of the construction activities during the project-level analysis.

- I13-12      A health risk assessment (HRA) prepared for future projects would need to meet the criteria outlined in Mitigation Measure AQ-1, which requires that the applicant identify and demonstrate that mitigation measures are capable of reducing risks to acceptable levels (i.e., below ten in one million, a hazard index of 1.0, or particulate matter concentrations of  $2.5 \mu\text{g}/\text{m}^3$ ). A HRA typically takes into account the fraction of time spent outside. If there are places within the project site where sensitive receptors would spend time outdoors within the buffer distances identified by CARB (e.g., tot lots), the HRA would need to consider the time spent by sensitive receptors utilizing these facilities. Consequently, the HRA would be required to consider both indoor and outdoor receptors based on the duration of exposure in accordance with Office of Environmental Health Hazard Assessment (OEHHA) and the SCAQMD guidelines. It should be noted that mitigation measures to reduce risk may also include placement of outdoor areas outside the recommended CARB buffer distance in the unlikely event outdoor risk exceeds the SCAQMD's thresholds.
- I13-13      The GHG emissions analysis in Section 5.4, *Greenhouse Gas Emissions*, evaluates the environmental impacts of the proposed project on the environment with regard to GHG emissions. Identifying the effects on the project and its users of locating the project in a particular environmental setting is neither consistent with CEQA's legislative

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purpose nor required by the CEQA statutes (*South Orange County Wastewater Authority v. City of Dana Point* (2011) 196 Cal.App.4th 1604, 1614–1618; *City of Long Beach v. Los Angeles Unified School Dist.* (2009) 176 Cal.App.4th 889, 905; *Ballona Wetlands Trust v. City of Los Angeles* [2011] 201 Cal.App.4th 455, 473–474). Consequently, Section 5.4 evaluates the potential increase in GHG emissions generated by the project compared to those generated by the 2006 General Plan Update.

Impacts to hydrology (e.g., flooding) can be found in Section 5.7, *Hydrology and Water Quality*, and impacts to stormwater drainage facilities can be found in Section 5.12, *Utilities and Service Systems*, in the Draft SEIR. Flooding, which is exacerbated by sea level rise, is adequately addressed in these sections. As stated in the Draft SEIR, policies in the 2006 General Plan Safety Element and Section 15.50.160 of the City's municipal code require storm drain maintenance, mitigation of flood hazards, installation of onsite drainage systems, and site-specific grading requirements to ensure no flooding would occur with new development.

- I13-14 The commenter is incorrect that the Draft SEIR has used an inappropriate significance threshold and/or misrepresented the SCAQMD's significance thresholds. The Draft SEIR clearly documents the recommendations made during the final SCAQMD Working Group meeting, which occurred in September 2010 (Meeting No. 15), which can be found on SCAQMD's website. PlaceWorks (Draft SEIR consultant) has presented with Ian MacMillan and Michael Krause at SCAQMD in several CEQA workshops following the dissolution of the SCAQMD CEQA Significance Threshold Working Group, most recently at the Air Quality Workshop at the 2014 Association of Environmental Professionals (AEP) Conference in Huntington Beach. SCAQMD has also stated that the "development project" thresholds drafted during Meeting No. 15 are supported by substantial evidence. Furthermore, consensus of the Working Group clearly stated that it is at the lead agency's discretion to apply the appropriate threshold to the project for CEQA review. In other words, SCAQMD's recommendation is that the lead agency will need to decide which threshold is most appropriate (*Citizen for Responsible Equitable Environmental Development v. City of Chula Vista* (2011) 197 Cal.App.4th 327, 335–336). For the purpose of this general plan project, the Draft SEIR evaluates impacts compared to the efficiency metric of 6.6 metric ton of carbon dioxide-equivalent (MTCO<sub>2</sub>e) per service population (residents and employees).

The 10,000 MTCO<sub>2</sub>e threshold cited by the commenter is based on emissions from industrial (permitted) sources and is not an accurate threshold for use for development projects. There is no evidence that shows that this quantity of GHG emissions from a development project would generate a "less than significant" impact. SCAQMD's stationary source GHG threshold is based on a 90 percent capture rate of SCAQMD's permitted projects and excludes all development projects. Furthermore, permitted sources of GHG emissions are identified separately in California's statewide GHG emissions inventory ("Industrial" sector).

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The Working Group Meeting No. 15 clearly identifies use of the 6.6 MTCO<sub>2</sub>e per service population threshold for plan-level analyses as a Tier 4 performance standard (<http://www.aqmd.gov/ceqa/handbook/GHG/2010/sept28mtg/sept29.html>). The commenter is incorrect in this regard. The efficiency metric identified in the Meeting No 15 is derived from applicable land use sectors (“On-Road”, “Commercial”, “Residential”, “Waste”) in the statewide GHG emissions inventory prepared by CARB in accordance with Assembly Bill 32 (AB 32), as identified in CARB’s 2008 *Scoping Plan*. Consequently, there is substantial evidence that justifies use of a 6.6 MTCO<sub>2</sub>e per service population for land use projects. Furthermore, the efficiency threshold of 6.6 MTCO<sub>2</sub>e per service population cited by SCAQMD is consistent with the BAAQMD plan-level threshold, which is also 6.6 MTCO<sub>2</sub>e per service population.

While the outline by the commenter of the BAAQMD lawsuit pertaining to its current status is correct, the commenter is not correct that BAAQMD no longer recommends that the CEQA thresholds be used to evaluate CEQA impacts in the Bay Area. This guidance is not current based on the current status of the lawsuit and based on current discussions with BAAQMD. Based on recent communications with Abby Young at BAAQMD, the thresholds are supported by appropriate studies and analysis (see <http://www.baaqmd.gov/Divisions/Planning-and-Research/CEQA-GUIDELINES/Tools-and-Methodology.aspx>). BAAQMD’s recommendation is that pursuant to its discretion under State CEQA Guidelines section 15064 (b), lead agencies may exercise their discretion on what criteria to use (*Citizen for Responsible Equitable Environmental Development v. City of Chula Vista* (2011) 197 Cal.App.4th 327, 335–336). Based on current practice for projects in the Bay Area, the majority of air quality and GHG emissions analysis have been proceeding with use of the newer thresholds because there is substantial evidence that supports the newer criteria, despite its having been rescinded by BAAQMD due to the pending litigation.

The efficiency metric significance threshold identified in the Draft SEIR is based on substantial evidence and has been determined by the lead agency to be applicable for the general plan level analysis. As demonstrated above, the 10,000 MTCO<sub>2</sub>e bright-line threshold is not applicable for development projects and should be applied to industrial (permitted) sources of GHG emissions in the SCAQMD only. The criteria for recirculation under CEQA Guidelines Section 15088.5 have not been demonstrated by the commenter.

- I13-15 Hazardous impacts to the public (including construction workers) or environment through routine transport, use, and disposal of hazardous materials, and through reasonably foreseeable upset and accident conditions involving the release of hazardous materials (during construction and operations) were considered less than significant and closed out in Section 3.8, *Hazards and Hazardous Materials*, of the Initial Study. The Initial Study, included as Appendix A in the Draft SEIR, substantiates why these impacts would be less than significant.



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- I13-16 See response to I13-15 above.
- I13-17 There is no Appendix J in the Draft SEIR; the General Plan Land Use Element Amendment Traffic Impact Analysis is in Appendix I. Section 3.2, *Draft SEIR Revisions in Response to Written Comments*, of this Final SEIR corrects this mislettering.
- I13-18 Traffic analysis is complex and difficult to present in layman's terms for the general public. Pursuant to CEQA Guidelines Section 15147, *Technical Data*, "Placement of highly technical and specialized analysis and data in the body of an EIR should be avoided through inclusion of supporting information and analyses as appendices to the main body of the EIR." The detailed information and analyses for traffic is included in Draft SEIR Appendix I, *General Plan Land Use Element Amendment Traffic Impact Analysis*, which was made publicly available at the same time as the main volume of the Draft SEIR.
- I13-19 The purpose of the Draft SEIR is to inform decision makers and the public whether the proposed project, compared to the 2006 General Plan, would result in any new significant impacts or an increase in the severity of significant impacts previously identified for the 2006 General Plan. The 2006 General Plan (not existing ground conditions) is the "baseline" for the analysis in the Draft SEIR to evaluate the potential incremental impacts of the proposed project. Therefore, the comparison of LOS was made between the 2006 General Plan (baseline) and the Project (Land Use Amendment). Compared to the 2006 General Plan land use scenario (baseline), the project would not worsen the operation at any intersections that are anticipated to operate at unacceptable LOS. There would be no significant impacts with the planned improvements as identified in the 2006 General Plan at study-area intersections.

The Newport Beach Traffic Model (NBTM) has recently been updated to incorporate current land use, socioeconomic factors, trip generation, and network data from a variety of sources, including models from nearby cities. The City model also updated land uses to include existing, approved, and reasonable and foreseeable developments such as the City of Newport Beach City Hall and the PIMCO building. The Newport Beach City Hall was opened in the spring of 2013. On May 4, 2013, the Community Celebration event, including an official ribbon cutting ceremony and open house took place. Based on a review of the traffic counts included in Appendix 2.1 of the traffic impact assessment, key intersections in the vicinity of the City Hall such as MacArthur Boulevard at PCH, San Joaquin Hills Road at MacArthur Boulevard, Avocado Avenue at San Miguel Drive, MacArthur Boulevard at San Joaquin Hills, MacArthur Boulevard at San Miguel Drive, and Avocado Avenue at PCH were taken in November 2013. The traffic forecasts for long-range conditions are based on existing traffic volumes combined with anticipated ambient growth traffic and future projects. As the counts were taken after the opening of the City Hall, the traffic volume forecasts already include traffic generated by the new City Hall. The PIMCO Building is still under

## 2. Response to Comments

construction, with expected completion in the summer of 2014. The model land uses include that building as a future (approved) project. In summary, traffic projections correctly included cumulative traffic from existing, approved, and reasonably foreseeable projects.

- I13-20 The trip generation rates are included in Table 1 in Appendix 4.1 of the traffic impact analysis for the project. Trip generation has been estimated based upon the Newport Beach Traffic Model (NBTM) trip generation rates, which approximate the trip generation used in the NBTM. The NBTM was updated in 2013 in support of this Land Use Element Update and has been specifically calibrated for Newport Beach. The NBTM evaluates land use interactions between traffic analysis zones (TAZs), including trip generation, trip distribution, and traffic assignment. The Institute of Transportation Engineers' *Trip Generation* (9th edition, 2012) might be more appropriately used for individual development project studies (e.g., TPO studies), for greater accuracy at driveways and to establish impacts for specific, individual projects. Model trip generation is not intended to match ITE trip generation and is useful in looking at systemwide performance. This is consistent with the methodology used for the traffic study for the 2006 General Plan update. The commenter incorrectly compares the trip generation for an office space without pass-by and internal capture trip reductions with the total trip generation for the project, which includes areas of added and reduced development capacity. The trip generation estimates presented in Table 5.11-6 of the Draft SEIR summarize the citywide totals in the last line. This table shows added trips from areas where there would be an increase in development capacity, as well as areas where a decrease in development capacity would occur. For example, though 8,768 daily trips would be added in the Newport Center/Fashion Island area, a reduction of 7,588 trips would occur due to a decrease in development capacity at the Newport Coast Hotel. Table 5.11-6 shows that citywide net daily trips would increase by 8,221 as areas where increase in capacity would be offset by trips where a decrease in capacity would occur.
- I13-21 Table 5.11-6 of the Draft SEIR shows the changes in trip generation (reductions and increases) associated with each area of the City where proposed General Plan LUE Amendment will adjust the development potential, as stated in page 5.11-24, preceding the table. It is not implied that these estimates refer to traffic volumes on roadways; these volumes are trips from future development potential.
- I13-22 As discussed in response I13-19, the purpose of the Draft SEIR is to determine whether the proposed project, compared to the 2006 General Plan, would result in any new significant impacts or an increase in the severity of significant impacts previously identified for the 2006 General Plan. The 2006 General Plan is the "baseline" for the analysis in the Draft SEIR to evaluate the potential incremental impacts of the proposed project.

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- I13-23      Table 5.11-6 in the Draft SEIR shows the net new average daily trips (ADT) with the project. Trips are utilized to calculate traffic impacts to the road system. Table 5.2-8 indicates the vehicle miles travelled (VMT) with the project. VMT is expressed in miles and indicates how many miles travelled are related to the project. VMT is a function of the number of trips multiplied by the distance of each trip. VMT is used to calculate air pollutant and greenhouse gas emissions. There is no discrepancy, because these are different metrics used for different analyses. The difference between the 2006 General Plan and the LUE Amendment is 8,221 ADT and 56,559 VMT.

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## 2. Response to Comments

LETTER I14A – Jim Mosher (4 pages)

### Land Use Element Amendment Supplemental EIR (SEIR)

The following comments on the "Draft Supplemental Environmental Impact Report (SCH# 2013101064) for the Newport Beach General Plan Land Use Element Amendment" are submitted on April 30, 2014, by: Jim Mosher ( [jimmosher@yahoo.com](mailto:jimmosher@yahoo.com) ), 2210 Private Road, Newport Beach 92660 (949-548-6229)

1. I find it problematic that the Public Scoping Meeting for this SEIR was held on November 5, 2013, when the proposed changes to the General Plan's Land Use Goals and Policies, which are presumably part of the project that was being scoped for analysis, had only been opened for discussion at the Land Use Element Amendment Advisory Committee's meeting the previous hour, and were not finalized until its February 4, 2014, meeting, long after work on the SEIR was underway. It also bothers me that most have been relegated to an appendix. I14A-1
2. The 45-day public review period for the SEIR set forth in the "Notice of Completion & Availability" (March 17, 2014 – April 30, 2014) seems inconsistent to me with the normal rule in California that the first day is excluded from the count of days during which an announcement or document is available for review. Under that rule, I should think a 45-day public review period initiated on March 17 should run through the end of business on (March 17 + 45 days =) May 1. I14A-2
3. Whatever the legal requirement for counting days for CEQA documents, I feel a considerably longer review period would have been highly beneficial to the impacted public, especially given the City's forgoing its normal mechanisms of having the project EIR reviewed by its appointed Environmental Quality Affairs Committee and/or introducing the project and EIR at a formal study session before the Planning Commission while the public comment period was still open. Instead, the review of a complex document was left entirely in the hands of untrained citizens. It might also be noted that in this case, since the "applicant" is the City, a longer review period provided by the City to its citizens would not have inconvenienced an outside party expecting "streamlining." Speaking for myself, within the City's present self-imposed "45-day" time limit for submitting comments to which written replies will be prepared, and considering the many other unrelated City activities scheduled within that same 45-day time period, I have not had time to review more than a handful of the 2,983 pages of the SEIR (including appendices), let alone the supporting documents that are claimed to be available for review. I14A-3
4. The "Notice of Completion & Availability" of the SEIR also appears to me to have been issued in violation of the mandatory requirement in Section 15087(c)(3) of the State CEQA Guidelines that the notice disclose "The date, time, and place of any scheduled public meetings or hearings to be held by the lead agency on the proposed project when known to the lead agency at the time of notice." I14A-4
  - a. Given City staff's longstanding knowledge, frequently articulated in public, of the critical and hurried timing needed to get the project approved by the City Council in time for a measure to be placed on the November, 2014, ballot, it is difficult to believe that the lead agency (the City of Newport Beach) did not have at least a

## 2. Response to Comments

Land Use Element Amendment - SEIR comments - Jim Mosher

Page 2 of 3

tentative schedule of planned public meetings or hearings on the project, whose dates, times and places should have been disclosed in the Notice (even they were subsequently rescheduled).

- b. In particular, I strongly suspect the approximate date, time, and place of the April 10, 2014, "Public Information Meeting" at the Newport Beach Civic Center Community Room, as announced in the City's April, 2014, newsletter (<http://www.newportbeachca.gov/Modules/ShowDocument.aspx?documentid=18149>) was at least tentatively planned at the time of publication of the "Notice of Completion & Availability" (the document contains an internal March 24 timestamp) and should have been disclosed.

114A-4  
cont'd

- c. More definitively, the attached tentative schedule (<http://newportbeachpublic.novusagenda.com/AttachmentViewer.ashx?AttachmentID=1919&ItemID=2051>) distributed to the Planning Commission at its March 6, 2014, meeting, and dated February 25, 2014 – three weeks before the "Notice of Completion & Availability" – announces the planned (and I believe still current) schedule of hearings on the project before the Planning Commission, with a Study Session on May 8 and a Public Hearing on May 22. I believe that for the public's benefit, the lead agency was obligated to disclose these known, or at least planned, dates in the "Notice of Completion & Availability," but did not. Indeed, the long-anticipated May 8 Planning Commission Study Session date was not even disclosed in the subsequent mailed Newsletter announcing the April 10 Public Information Meeting.

- 5. Whether it is required in a Supplemental EIR or not, it would seem to me the decision makers in this case (both City Council and voters) need to know the impact the project will have relative to today's *existing conditions* (a more proper "baseline") and not just relative to *buildout* of the current General Plan (the so-called "no project" alternative), particularly since a major premise of the current project is that existing entitlements are not likely to ever be fully utilized (for example in Newport Coast). In other words, based on statements made by lead agency staff to the Land Use Element Amendment Advisory Committee, buildout of the current General Plan does not seem to be a reasonable "no project" alternative. The reasonably foreseeable "no project" alternative is something less than that. And the most reasonable baseline is what we have today.

114A-5

- 6. As a Supplemental EIR, careful attention has to be given to changes that have occurred since the previous EIR in both the Newport Beach General Plan and in neighboring cities.

- a. As to changes within Newport Beach, the *Executive Summary* on page 1-6 of the draft SEIR says that "Appendix C provides a list of General Plan Amendments and project approvals that have been processed subsequent to certification of the 2006 General Plan EIR." However, the referenced appendix appears to have been omitted from the draft released for public review, making it impossible for the public to know, let alone verify, what assumptions went into the analysis.

114A-6

## 2. Response to Comments

Land Use Element Amendment - SEIR comments - Jim Mosher

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- |  |                          |
|--|--------------------------|
| <p>b. As to changes outside Newport Beach, other than oblique references to a possible new Airport Settlement Agreement, the <i>Executive Summary</i> does make at all clear how changes since 2006 to land use development and planning outside the City's jurisdiction have been factored into the analysis.</p>   | <p>I14A-6<br/>cont'd</p> |
| <p>7. As a further example of the haste and sloppiness with which this document seems to have been prematurely released for public review, in computer-searching the whole SEIR for the preceding "Appendix C," it was noticed that in <i>Cultural Resources</i> page 5.3-5, lines 6 and 7 from bottom, asks readers to take cognizance of "Appendix C of the Cultural Resource Assessment Report," but I am unable to find a "Cultural Resource Assessment Report" nor any listing of how to find such a document in the Bibliography.</p>  | <p>I14A-7</p>            |
| <p>8. In the <i>Project Description</i> (page 3-1), I found the description of the City as lying "on the western boundary of Orange County in Southern California abutting the Pacific Ocean on its west end" to be factually incorrect and confusing. I would think of Seal Beach or Cypress as being on the western boundary of the County. Newport Beach is as much south as west, or more accurately on the County's southwest border, and the Pacific Ocean is likewise more generally to the south than the west.</p>  | <p>I14A-8</p>            |
| <p>9. In <i>Transportation and Traffic</i>, I am mystified by why the analysis seems to be confined to impact on intersections. Page 5.11-4 emphasizes the importance of volume/capacity (V/C) ratios on City roads, but the remainder of the report seems to ignore them -- even when the anticipated volume of traffic exceeds the design capacity. In fact, based on the last line of the paragraph following Table 5.11-2 (also on page 5.11-4), whoever wrote the report seems to think that "V/C&gt;1.0" is a good thing, representing volume /less than theoretical planning level capacity. I think the opposite is true, and V/C&gt;1.0 is a bad thing, representing an anticipated volume exceeding a road's capacity. Or is this just another indication of the sloppiness and unreliability of the SEIR?</p> | <p>I14A-9</p>            |



## 2. Response to Comments

Updated February 25, 2014

### Planning Commission TENTATIVE MEETING AGENDA

HEARING DATE	TITLE	PROJECT DESCRIPTION	Action	CEQA	DESIGN DETAILS
March 5	Land Use and Zoning Amendments	191 Riverside – land use change to Mixed Use	Recommendation to Council	Neg Dec	None
	General Plan Annual Review – Melinda	Current business	Recommendation to Council	Exempt	None
March 20	The Stag Bar & Grill	121 McFadden Place – Use Permit to expand floor area and hours	Use Permit	Exempt	
	Crystal Cove Nursing Facility	Parking Facility in Residential Zone	Use Permit	Exempt	None
April 3	Echo Beach	5515 River Avenue - Consideration of Substantial Conformance with 2008 approval for 24-unit condo development.	Conformance with previous approval	Previous MND	Renderings; Materials Board
April 17					
May 8	Land Use Element Amendment	Study Session – Draft EIR available March 12	Discussion	EIR	None
May 22	Land Use Element Amendment	Public Hearing – Final EIR available May 15	Recommendation to Council	EIR	None
June 5	Lico House Hotel	Study Session – Draft EIR available ____	Discussion	EIR	Colored Renderings
June 19					
July 3	Lico House Hotel	Public Hearing	Recommendation to Council	EIR	
July 17					
August 7					
<b>INCOMPLETE APPLICATIONS</b> (italics indicate new applications since last report)					
1.	<i>A Frames &amp; Base Flood Elevation</i>	<i>Amendment to Sign Code to allow for A-frame signs and update flood elevation per FEMA</i>	<i>Recommendation to Council</i>	<i>Exempt</i>	<i>None</i>
2.	<i>441 Old Newport – Car Lifts</i>	<i>Appeal of Zoning Administrator's Decision</i>	<i>Use Permit</i>	<i>Exempt</i>	<i>None</i>
3.	Balboa Village Parking Strategies	Amendment to Zoning Code	Recommendation to Council	TBD	None
4.	Harbor Day School	Use Permit to increase enrollment and establish off-site parking	Use Permit	Exempt	None
5.	Westcliff Medical Offices	2043 Westcliff Drive. New Office development.	Site Development	Traffic Analysis	Colored



## 2. Response to Comments

### I14A. Response to Comments from Jim Mosher, dated April 30, 2014.

I14A-1 The Notice of Preparation and the scoping meeting are both part of process to solicit public and agency comments regarding the appropriate scope of an EIR. Per CEQA Guidelines Section 15082, (a)(1), *Notice of Preparation and Determination of Scope of EIR, Notice of Preparation*:

“The notice of preparation shall provide the responsible and trustee agencies and the Office of Planning and Research with sufficient information describing the project and the potential environmental effects to enable the responsible agencies to make a meaningful response. At a minimum, the information shall include:

- A) Description of the project,
- B) Location of the project,
- C) Probable environmental effects of the project.”

The NOP and Scoping Meeting Notice included this information as well as a completed Initial Study describing the project and assessment of related, potential environmental impacts. The commenter is correct that the project description at the time of the initiation of the Draft SEIR and at the scoping meeting did not include the proposed language for modifications to the General Plan policies. This information did not preclude meaningful responses from the public or agencies regarding recommendations on the scope of the EIR. As noted in response to this comment at the scoping meeting (see also Draft SEIR Table 2-1, *Scoping Meeting Comment Summary*, Philip Bettencourt), the EIR focuses on the potential direct and indirect physical impacts of the proposed project on the environment (i.e., land use changes); each topical impact section (air quality, traffic, etc.) discloses both existing General Plan policies and the proposed new and modified policies relative to the potential impacts of the proposed LUE Amendment. With respect to “relegation of the full General Plan policy listing to an Appendix,” please see Response O6-6.

I14A-2 The public review period for the LUE Amendment Draft SEIR, March 27, 2014, through April 30, 2014, is in accordance with the requirements of CEQA, which are specified in CEQA Guidelines Section 15087, Public Review of the Draft EIR, and Section 15105, Public Review Period for a Draft EIR or a Proposed Negative Declaration or Mitigated Negative Declaration. Section 15105 (a) stipulates that the public review period for a Draft EIR “shall not be less than 30 days nor should it be longer than 60 days except under unusual circumstances. When a draft EIR is submitted to the State Clearinghouse for review by state agencies, the public review period shall not be less than 45 days, unless a shorter period, not less than 30 days, is approved by the State Clearinghouse.” Section 15087(a) stipulates that “the lead agency shall provide public notice of the availability of a draft EIR at the same time it sends a notice of

## 2. Response to Comments

completion to the Office of Planning and Research.” The City posted the Notice of Availability for the public on March 17, 2014. Section 15087 (e) stipulates that “...Day one of the state review period shall be the date the State Clearinghouse distributes the document to state agencies.” For the LUE Amendment Draft SEIR, the State Clearinghouse notified the City that the documents had been distributed and the public review period for the Draft SEIR would be from March 17, 2014, through April 30, 2014. Moreover, although the public review period officially closed on April 30, 2014, the City accepted and has responded to late comment letters in this Final SEIR (please see comment letters I19 through I23, dated May 1 through May 11, 2014).

I14A-3 Refer to Response I14A-2.

I14A-4 All public meeting and hearings have been noticed in accordance with applicable requirements. Tentative or approximate public hearings and public meeting dates are not required to be included in the Notice of Completion and Availability. Tentative Planning Commission and City Council hearing dates have been made public throughout the Land Use Element update process, including at the Land Use Element Update Committee meetings, Planning Commission Study Session meetings, and public outreach meeting such as the Big Canyon HOA meeting and Speak Up Newport meeting.

I14A-5 A discussion of the approach to the Draft SEIR and the definition of baseline for this Supplemental EIR are included under Draft SEIR Section 1.2.1, *Type and Purpose of this Draft EIR*. For a Supplemental EIR, the original EIR serves as “baseline” with respect to the incremental change in impacts. The incremental impact assessed is between buildout of the 2006 General Plan and the buildout of General Plan as proposed to be amended by the LUE Amendment. This incremental impact is assessed relative to any change in existing conditions. The environmental setting of each topical section provides an update of existing conditions and changes in circumstances since certification of the 2006 General Plan EIR. As noted, where a statistical comparison is required to quantify impacts (i.e., air quality, GHG, population and housing, public services, and utilities and service system impacts), the projected buildout data is based on the land use information used for the traffic modeling. The modeling incorporates land use changes that have been approved subsequent to the certification of the 2006 General Plan. A list of the General Plan Amendments and project approvals that have been processed subsequent to the 2006 General Plan EIR certification and are included in the analysis is included as Attachment C to this Final SEIR. The methodology does not underestimate potential environmental impacts of the proposed LUE Amendment, but on the contrary, analyzes the buildout of the General Plan as amended.

I14A-6 The approach to cumulative analysis for the proposed project is summarized in Section 4.4 of the Draft SEIR. Method “B” was used, which relies on “summary of projections contained in an adopted General Plan or related planning document designed to evaluate

## 2. Response to Comments

regional or area-wide conditions.” The 2006 General Plan information was updated to incorporate General Plan Amendments and other project approvals since approval of the 2006 General Plan (see Attachment C to this Final SEIR).

- I14A-7      The cultural resources assessment report is referenced in the introduction of Section 5.3, *Cultural Resources*, as Appendix E of the Draft SEIR. This report is available on the City’s website and indexed with links at the same location as Volume 1 of the Draft SEIR. Appendix C of the Cultural Resources appendix is included in the report (on the City’s website), as referenced in the cited comment.
- I14A-8      The location of the City of Newport Beach is revised in Section 3.2, *Draft SEIR Revisions in Response to Written Comments*, in this Final SEIR.
- I14A-9      This type of analysis is consistent with the analysis performed for the 2006 General Plan update and for transportation planning level analyses. It was performed to evaluate whether intersections meet the City’s LOS criteria as included in the General Plan Circulation Element.

As discussed in Page 5.11-4 of the Draft SEIR, the typical daily capacities are appropriately used as a screening tool to evaluate overall vehicular activity levels, subject to more detailed peak hour analysis at key intersections. Detailed intersection operations were analyzed during peak hour conditions. Since the LOS for each roadway segment is largely a function of the adjacent intersection operations, it is important to consider the intersection LOS in combination with the roadway segment V/C ratios. The intersection LOS is the true control for system operations. If the adjacent intersections are operating at an acceptable LOS during peak hour conditions, then it is likely that the roadway segment will also operate at an acceptable LOS even if the V/C ratio indicates that the ADT may approach or exceed the roadway capacity. Moreover, if the roadway segment is experiencing capacity constraints and the adjacent intersections are operating at unacceptable LOS, additional through-lane capacity is likely required for the roadway segment and the adjacent intersection locations.

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## 2. Response to Comments

LETTER I14B – Jim Mosher (1 page)

Comment from Jim Mosher No.2

-----Original Message-----

From: Jim Mosher [<mailto:jimmosher@yahoo.com>]

Sent: Wednesday, April 30, 2014 4:14 PM

To: Ramirez, Gregg

Subject: An additional written comment on the GP Land Use Element Amendment Draft SEIR

Gregg,

In addition to the previously submitted written comments on the General Plan Land Use Element Amendment Draft SEIR released for public review on March 17, if no one has submitted an official comment on their behalf, I would like to note for the record that at its April 17 meeting, by a 3:2 vote, the Orange County Airport Land Use Commission, in considering the project as they understood it, differed from the "AELUP Consistency Conclusion" presented on page 5.7-19 of the draft SEIR.

As the lead agency knows, the Airport Land Use Commission found the project INCONSISTENT with the AELUP, or at least denied the City's requested finding of consistency.

Yours sincerely,

Jim Mosher  
2210 Private Road  
Newport Beach, CA 92660

I14B-1

## 2. Response to Comments

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## 2. Response to Comments

### **I14B. Response to Comments from Jim Mosher, dated April 30, 2014.**

I14B-1 Comment acknowledged.

## 2. Response to Comments

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## 2. Response to Comments

LETTER I15 – Portia Weiss (3 pages)

**From:** Portia Weiss [mailto:portiaweiss@gmail.com]  
**Sent:** Wednesday, April 30, 2014 4:51 PM  
**To:** Ramirez, Gregg  
**Subject:** Subject: General Plan Amendment (November 2014 Public Vote)

Date: Wed, 30 Apr 2014

Dear Mr. Greg Ramirez,

Please provide copies of this letter to Members of the City Council and the Planning Commission.

This letter addresses residential concerns associated with commercial development abutting residential designated properties and proposes changes to the General Plan Amendment (November-2014 Public Vote) to minimize the residential concerns for:

- A. Limiting all vehicular access (ingress and egress) to the completed commercial sites to the commercial street side and not from shared commercial/residential alleys..
- B. Noise and safety concerns from commercial deliveries/trash pickup,
- C. Parking on residential streets instead of utilization of assigned commercial parking
- D. Increased traffic volume on residential streets and shared commercial/residential alleys, with associated safety concerns.
- E. Health and noise associated with employees smoking and conducting personal/commercial business on cell phones in common shared street or residential alley.
- F. Noise, safety and health intrusions associated with site installed mechanical equipment (such as Heating Ventilating and Air Conditioning HVAC, pumps, ventilation from enclosed parking, etc.)

Intro

It is requested that the following be incorporated into

I15-1

## 2. Response to Comments

### the General Plan Amendment (November-2014 Public Vote) :

N4.3 – New Commercial Developments { defined as new initial development of a previously undeveloped sites or redevelopment of a previous developed site } (NCD) require that new commercial development abutting residential designated properties be designed to minimize limited vehicular access (ingress and egress from the street and not shared alleys) and impacts to health, safety and noise generated by loading areas, parking lots, trash enclosures, mechanical equipment, and any other noise generating features specific to the development to the extent feasible.

1) Development/redevelopment for these NCD sites shall be limited to the historical usage. Example : If the type of business conducted at the sites has been from 8:00 AM to 5:00 PM with minimal or no business on weekends (and no Sunday business), then these sites shall be limited to the historical usage.

2) During NCD development/redevelopment construction , all deliveries/pickups (materials, construction trash, etc.) to the site shall be restricted to the commercial street side of the site and prohibited from any alley shared by the commercial site and the residences and limited to 8:00am to 5:00pm.

3) No vehicular access to the completed NCD site (ingress and egress) from the alley adjacent to the residential area shall be permitted. No vehicular parking on the alley adjacent to the residential area shall be permitted. All vehicular access to the completed NCD site shall occur from the commercial street side of the NCD.

4) Trash pickup from the completed NCD site shall be restricted to the commercial street side of the site and prohibited from any alley shared by the commercial site and the residences. Additionally, all deliveries/pickups (business, laboratory specimens, supplies, etc.) shall be restricted to commercial street side of the site and prohibited from any alley shared by the commercial site and the residences. Hours shall be limited to 8:00am to 5:00pm.

5) No on-street parking credit shall be granted for NCD's abutting residences.

6) Employee Parking Spaces shall be required and designated with posted signage stating "Employee Parking Only" .

115-1  
cont'd

## 2. Response to Comments

7) The storage of vehicles/trailers on decorative paving, defined landscape areas or parking spaces shall be prohibited.

8) Parking shall be prohibited on any area specified as decorative paving or landscape area by signage.

9) An on-site employee area for smoking and conducting personal business on cell phones shall be established away from the commonly shared street or residential alley.

10) Lighting impacts and privacy concerns of adjacent residential properties for NCD sites shall be minimized (such as automated internal shades set to close in the evening and an internal lighting system that auto-dims after standard working hours, leaving limited task lights illuminated for janitorial activities).

11) Noise, safety and health intrusions associated with installed site mechanical equipment (such as Heating Ventilating and Air Conditioning --HVAC, pumps, ventilation from enclosed parking, etc) shall be minimized (such as installed with a timing device that will deactivate the equipment during the hours of 05:00PM to 08:00AM).

I15-1  
cont'd

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## 2. Response to Comments

### **I15. Response to Comments from Portia Weiss, dated April 30, 2014.**

- I15-1 This letter expresses several concerns with respect to commercial development abutting residential land uses. Specific General Plan policy language is recommended to be added to the proposed LUE Amendment. Since this comment does not address the adequacy of the Draft SEIR or CEQA requirements, it will be forwarded to decision-makers for consideration.

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## 2. Response to Comments

LETTER I16 – Susan Harker (1 page)

**From:** Susan Harker [mailto:susanharker@sbcglobal.net]  
**Sent:** Wednesday, April 30, 2014 4:53 PM  
**To:** Ramirez, Gregg  
**Cc:** susanharker@sbcglobal.net  
**Subject:** Public Comment on General Plan Land Use Amendment draft SEIR

4/30/14

To: Gregg Ramirez - Planning, City of Newport Beach  
[gramirez@newportbeachca.gov](mailto:gramirez@newportbeachca.gov)

Subject: Public Comment on General Plan Land Use Amendment draft SEIR

I did not hear until a few days ago that the a special committee and Newport Beach staff have proposed amending the land use by revisions to the General Plan along with a supplemental Environmental Impact Report. Would you let me know how the opportunity for public comment was advertised? I16-1

Are all committees, commissions, groups and departments aware of the extensive changes? Secondly, how can Newport Beach support the increased water usage with the indicated construction, building and maintenance of the hotels, residential and business property? I16-2

Thank you for letting me write to you.

Sincerely,  
Susan Harker  
[susanharker@sbcglobal.net](mailto:susanharker@sbcglobal.net)

## 2. Response to Comments

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## 2. Response to Comments

### **I16. Response to Comments from Susan Harker, dated April 30, 2014.**

I16-1 Throughout the process for amending the City of Newport Beach General Plan Land Use Element, the City has solicited input from the community through the City's website, the formation of the Land Use Element Amendment Advisory Committee (LUEAAC), multiple meetings and correspondence with stakeholders, and by hosting a public information meeting on September 9, 2013 and April 10, 2014, and a Draft SEIR scoping meeting on November 5, 2013.

The LUEAAC was appointed by the Newport Beach City Council on June 25, 2013, and 11 meetings were conducted between July 2013 and February 2014 to solicit public comments, discuss options, develop the amendments to be evaluated in the Draft SEIR, and formulate recommendations to be considered by the Planning Commission and City Council. All meetings were open to the public, and agenda packets were posted on the City's website and distributed to individuals registered through the City's automated email system.

Specifically related to the Draft SEIR, the City advertised public commenting opportunities by posting environmental documents on the City's website and mailing notices to responsible agencies, interested parties, property owners, and residents within 300 feet of proposed changes.

Individuals attending the City Council and Planning Commission meetings may have received updates on the progress of the LUEAAC. Specifically study sessions were conducted with the City Council and the Planning Commission in September 2013 to keep them apprised of the project. The City's website is regularly updated with meeting information (agenda packets, PowerPoints, etc.), minutes, handouts, and draft documents.

In addition, upon kick-off of the process in July 2013, the City issued a press release which resulted in an article in the Sun Post. A 12-page newsletter was also mailed to all registered voters in the City in April 2014.

I16-2 All responsible agencies and interested parties were notified of the General Plan Land Use Element Amendment and its proposed changes.

The proposed project's impacts on Newport Beach's water supply are analyzed in Section 5.12, *Utilities and Service Systems*, which concludes that water supply and delivery systems provided by the City, Irvine Ranch Water District, and Mesa Consolidated Water District are adequate to meet the project's projected water demands.

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## 2. Response to Comments

LETTER I17 – Suzanne Forster (4 pages)

**From:** Blush1996@aol.com [mailto:Blush1996@aol.com]  
**Sent:** Wednesday, April 30, 2014 3:07 PM  
**To:** Ramirez, Gregg  
**Cc:** blush1996@aol.com  
**Subject:** Public Comment-General Plan LUE Amend SEIR

Date: April 30, 2014, 3:05 PM

To: Gregg Ramirez, Senior Planner, City of Newport Beach

From: Suzanne Forster

RE: Public Comment on General Plan LUE Amendment SEIR

Dear Gregg,

I'm submitting these comments as a 30-year resident of Newport Beach who, after reviewing the SEIR's Traffic Report, has concerns about the adverse impacts of the proposed Amendment on local and regional traffic, congestion and air quality.

Intro

In Section 6 of the General Plan LUE Amendment SEIR, the following are considered to be Significant Adverse Unavoidable Impacts (emphasis mine).

### "Transportation & Traffic

**Impact 5.11-3.** The County of Orange is currently preparing an EIR to analyze the potential impacts associated with the development of the John Wayne Airport Settlement Agreement. The proposed amendment for the Airport Settlement Agreement would expand the number of annual passengers and average daily departures from January 1, 2021 to December 31, 2035, which would result in a great number of automobiles and buses providing access to JWA. **The increased number of vehicles may result in traffic congestion and deterioration of level of service on the roadways surrounding JWA, including at intersections that would already be substantially impacted by the General Plan Land Use Amendment, such as Von Karman at Alton Parkway.** Until the EIR for the amendment of the Airport Settlement Agreement it is not possible to analyze with precision the probable traffic impacts of the proposed amendment. Because it cannot be determined at this point if significant impacts would occur and if mitigation measures would be feasible, impacts would be significant and unavoidable."

I17-1

Von Karman at Alton Parkway is listed as an example of a Newport Beach intersection that will be substantially impacted by the General Plan Land Use Amendment. What

## 2. Response to Comments

other intersections will be substantially impacted? And what mitigation measures are planned to lower the level of impacts to insignificance?	I17-1 cont'd
Is OCTA's EIR complete and available to the public? If not, when will it be available? The November election is just six months away and the public is faced with a great deal to learn in order to make a significant decision about an amendment that could dramatically affect the ongoing quality of their lives as Newport Beach residents.	I17-2
Will the 19 <sup>th</sup> Street Bridge and Bluff Road be used to mitigate the impacts in the city's traffic report? What other roads that exist only on paper and may never exist in reality will be used to mitigate traffic impacts of the proposed Amendment?	
My understanding is that even though the 19 <sup>th</sup> Street Bridge has been removed from Orange County's MPAH, it still exists on CNB's MPAH and is being used in analyses for traffic mitigation. Further, I understand that even if 19 <sup>th</sup> Street Bridge is removed from City's MPAH, it will still be part of the City's traffic management program. Is this true? If so, how can any traffic study based on even one major road that doesn't and will likely never exist be considered to accurately reflect traffic?	I17-3
According to a December 2013 <i>L.A. Times</i> article ("Orange County Construction Job Growth Third Highest in U.S."), construction in Orange County is growing precipitously. O.C. is currently 3 <sup>rd</sup> in the entire nation for construction job growth. If O.C. and L.A. County were combined, they would be #1 nationally. Driving the main streets confirms that a housing boom is already apparent in Newport Beach, Huntington Beach and Costa Mesa. This will have significant adverse impacts on our already congested beach, airport and street traffic.  <a href="http://newportbeach.patch.com/groups/business-news/p/orange-county-construction-job-growth-third-highest-in-us-newportbeach">http://newportbeach.patch.com/groups/business-news/p/orange-county-construction-job-growth-third-highest-in-us-newportbeach</a>	I17-4
A related article in the Daily Pilot discusses traffic congestion in Orange County:  <b>"Study: Southern California takes the cake in freeway congestion"</b>  <i>Sections of the 405, 55, 73 and 5 regularly cost drivers hundreds of thousands of hours and millions of gallons of gas, Texas institute says.</i>  A new university study released this week confirms what many here already know: Orange County has some of the most congested freeways in the nation."  <a href="http://articles.dailypilot.com/2011-11-16/news/in-dpt-1117-freeway-20111116_1_freeway-macarthur-boulevard-congestion">http://articles.dailypilot.com/2011-11-16/news/in-dpt-1117-freeway-20111116_1_freeway-macarthur-boulevard-congestion</a>	I17-5
There have been many warnings about the health and safety hazards of excessive development in an already heavily developed area, impacted daily by traffic, congestion and air pollution. It's time to take these warnings seriously.  Newport Beach doesn't exist in a vacuum, even though we're often accused of acting as if we do. The proposed amendment analyzes Newport traffic. Does it also take the	

## 2. Response to Comments

ongoing and proposed development in adjoining communities and the regional traffic impacts into consideration?

|117-5  
cont'd

What studies have been done that substantiate the current and ongoing need for more residential housing in Newport Beach? Who performed the studies? Have any independent studies been done, and if so, by whom? How much current and ongoing housing will be provided by the proposed amendment?

|117-6

Another Impact in Section 6 addresses impacted freeways:

### **Impact 5.11-5**

"Project-related trip generation would contribute to six existing and forecast deficient main line segments of the I-405, SR 73 and SR 55 freeways and contribute to deficient ramp operations at two I-405 off ramps. Caltrans does not have an adopted fee program that can ensure that locally contributed impact fees would be tied to improvement, and such improvements would be out of control of the City of Newport Beach. These freeway ramp impacts would be a cumulatively considerable, significant project impact."

|117-7

What reasoning was used to go forward with a proposed amendment that would create more impacts to six already deficient main line segments and two deficient ramp operations? Why would we want to make significantly worse something that's already broken, especially if we have no control over the outcome?

### **Air Quality**

As we know from the Banning Ranch EIR, that project alone will create significant traffic and air pollution impacts at buildout and beyond, and it is just one of many projects lined up for future development. How is it that so many of these projects were left out of the studies analyzing the proposed amendment's impacts? In some cases, the other project's impacts have already been studied in EIRs, as is true of Banning Ranch, but why weren't those impacts added to the cumulative impacts so that we could have a full picture of the effects of all the proposed, current and ongoing development in Newport Beach?

|117-8

The Council showed great concern about the air quality impacts of the fire rings on the health and well being of some of its residents. I would hope that all of its residents could expect at least that level of concern regarding what appears to be a precipitous increase in proposed development and its inevitable adverse effects. Certain elements of the Newport Beach business community undoubtedly prefer rapid growth and expansion, but the residents of Newport Beach have historically and overwhelmingly by their votes and their voices shown that they prefer slow growth for the city. Newport is too rare and beautiful an area to foul with the unmitigatable traffic, congestion and pollution that we can almost certainly look forward to if the proposed amendment passes. In the past, the Council has worked with resident groups to make decisions in favor of slow growth and protection of our coastline and natural resources. Sadly, with

## 2. Response to Comments

this amendment and other recent decisions, it's becoming the norm for this Council to work against the needs and wants of the majority of their constituency.

117-8  
cont'd

Thank you for the good work you do, and of course, for your consideration of my comments.

Suzanne Forster  
Newport Beach Resident

## 2. Response to Comments

### **I17. Response to Comments from Suzanne Forster, dated April 30, 2014.**

- I17-1 The intersections that would be impacted by the proposed LUE Amendment are listed in Draft SEIR Appendix I, Traffic Impact Analysis (TIA) Section ES.3 (on page 7). Without recommended General Plan buildout improvements, Irvine Avenue at University Drive, MacArthur Boulevard at Ford Road, and Von Karman Avenue at Alton Parkway would be impacted. With recommended 2006 General Plan buildout improvements, there would be no significantly impacted intersections.
- I17-2 The OCTA EIR reference in this comment is likely intended to indicate the Airport Settlement Agreement EIR. The Orange County Airport website indicates that the EIR will be available in late Spring 2014, but no date is given.
- I17-3 The roadway system included in the TIA includes recommended future roadways that are currently on the City's adopted General Plan Circulation Element, including the 19<sup>th</sup> Street bridge and Bluff Road. An analysis without the 19th Street bridge has been performed and is included as Attachment D in this Final SEIR. The 19th Street bridge may be subject to further evaluation during a future Circulation Element amendment.
- I17-4 Comment acknowledged. This comment is not related to the adequacy of the Draft SEIR and will be forwarded to decision-makers.
- I17-5 As stated in paragraph 2 of the TIA Executive Summary, "NBTM has recently been updated to incorporate current land use, socioeconomic, trip generation and network data from a variety of sources, including nearby City models (Irvine, Costa Mesa, and Huntington Beach) and the Orange County Transportation Analysis Model (OCTAM)." The volume forecasting methodology includes nearby land use and roadway network features, and even data for the Southern California region.
- I17-6 CEQA analysis requirements related to housing are included in Draft SEIR Section 5.9, *Population and Housing*. The required analysis focuses on whether the project would induce population growth or displace housing or people. This comment regarding the need for housing in Newport Beach is not related to CEQA requirements or the adequacy of the Draft SEIR. The proposed project would allow for up to 1,729 more residential units in the City, assuming that the maximum units are developed, including the potential for density bonus units.
- I17-7 Comment acknowledged. The Draft SEIR provides an objective analysis of the potential environmental impacts of the proposed LUE Amendment. It will be the City Council's decision whether to adopt the LUE Amendment in light of the impacts identified. If the City Council votes to approve the amendment as proposed, in accordance with CEQA Guidelines Section 15093, this body will also be required to adopt a Statement of Overriding Considerations explaining the specific reasons the economic, legal, social,

## 2. Response to Comments

technological, or other benefits of the project outweigh the unavoidable adverse environmental effects of the project.

I17-8      The Draft SEIR compares the impacts of the General Plan LUE Amendment (proposed project) to that of current 2006 General Plan. Air quality impacts are based on the South Coast Air Quality Management District's (SCAQMD) significance criteria and methodology for general plan projects. The baseline criteria air pollutant emissions inventory includes land uses that were identified in the 2006 General Plan and subsequent amendments that were adopted, including Banning Ranch. Consequently, the Banning Ranch project has been accounted for in the GHG emissions inventory. For criteria air pollutant emissions and GHG emissions, the regional significance thresholds evaluate both cumulative and project-level impacts. Based on the changes associated with the General Plan LUE Amendment, the incremental increase in criteria air pollutants compared to the baseline emissions would not exceed the SCAQMD's significance thresholds (see Table 5.2-9 in Section 5.2, *Air Quality*).

The commenter's concern for the rate of development in the City of Newport Beach and the increase in development associated with the General Plan LUE Amendment is noted.



## 2. Response to Comments

LETTER I18 – Tomlu Baker (3 pages)

**From:** TOMLU BAKER [mailto:tomlubaker@hotmail.com]  
**Sent:** Wednesday, April 30, 2014 4:12 PM  
**To:** Ramirez, Gregg  
**Cc:** Tom & Lu Anne Baker  
**Subject:** General Plan Amendment (November 2014 Public Vote)

Dear Mr. Greg Ramirez,

Please provide copies of this letter to Members of the City Council and the Planning Commission.

<!-- .ExternalClass .ecxhmmessage P { padding:0px; }.ExternalClass body.ecxhmmessage { font-size:12pt; font-family:Calibri; } -->

This letter addresses residential concerns associated with commercial development abutting residential designated properties and proposes changes to the General Plan Amendment (November-2014 Public Vote) to minimize the residential concerns for :

- A. Limiting all vehicular access (ingress and egress) to the completed commercial sites to the commercial street side and not from shared commercial/residential alleys.
- B. Noise and safety concerns from commercial deliveries/trash pickup,
- C. Parking on residential streets instead of utilization of assigned commercial parking
- D. Increased traffic volume on residential streets and shared commercial/residential alleys, with associated safety concerns.
- E. Health and noise associated with employees smoking and conducting personal/commercial business on cell phones in common shared street or residential alley.
- F. Noise, safety and health intrusions associated with site installed mechanical equipment (such as Heating Ventilating and Air Conditioning HVAC, pumps, ventilation from enclosed parking, etc.)

Intro

## 2. Response to Comments

It is requested that the following be incorporated into the General Plan Amendment (November-2014 Public Vote) :

I18-1

N4.3 – New Commercial Developments { defined as new initial development of a previously undeveloped sites or redevelopment of a previous developed site } (NCD) require that new commercial development abutting residential designated properties be designed to minimize limited vehicular access (ingress and egress from the street and not shared alleys ) and impacts to health, safety and noise generated by loading areas, parking lots, trash enclosures, mechanical equipment, and any other noise generating features specific to the development to the extent feasible.

1) Development/redevelopment for these NCD sites shall be limited to the historical usage. Example : If the type of business conducted at the sites has been from 8:00 AM to 5:00 PM with minimal or no business on weekends (and no Sunday business), then these sites shall be limited to the historical usage.

I18-1  
cont'd

2) During NCD development/redevelopment construction , all deliveries/pickups (materials, construction trash, etc.) to the site shall be restricted to the commercial street side of the site and prohibited from any alley shared by the commercial site and the residences and limited to 8:00am to 5:00pm.

3) No vehicular access to the completed NCD site (ingress and egress) from the alley adjacent to the residential area shall be permitted. No vehicular parking on the alley adjacent to the residential area shall be permitted. All vehicular access to the completed NCD site shall occur from the commercial street side of the NCD.

4) Trash pickup from the completed NCD site shall be restricted to the commercial street side of the site and prohibited from any alley shared by the commercial site and the residences. Additionally, all deliveries/pickups (business, laboratory specimens, supplies, etc.) shall be restricted to commercial street side of the site and prohibited from any alley shared by the commercial site and the residences. Hours shall be limited to 8:00am to 5:00pm.

5) No on-street parking credit shall be granted for NCD's abutting residences.

## 2. Response to Comments

6) Employee Parking Spaces shall be required and designated with posted signage stating "Employee Parking Only" .

7) The storage of vehicles/trailers on decorative paving, defined landscape areas or parking spaces shall be prohibited.

8) Parking shall be prohibited on any area specified as decorative paving or landscape area by signage.

9) An on-site employee area for smoking and conducting personal business on cell phones shall be established away from the commonly shared street or residential alley.

10) Lighting impacts and privacy concerns of adjacent residential properties for NCD sites shall be minimized (such as automated internal shades set to close in the evening and an internal lighting system that auto-dims after standard working hours, leaving limited task lights illuminated for janitorial activities).

11) Noise, safety and health intrusions associated with installed site mechanical equipment (such as Heating Ventilating and Air Conditioning --HVAC, pumps, ventilation from enclosed parking, etc) shall be minimized (such as installed with a timing device that will deactivate the equipment during the hours of 05:00PM to 08:00AM).

I18-1  
cont'd

## 2. Response to Comments

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## 2. Response to Comments

### **I18. Response to Comments from Tomlu Baker, dated April 30, 2014.**

- I18-1 This letter expresses several concerns with respect to commercial development abutting residential land uses. Specific General Plan policy language is recommended to be added to the proposed LUE Amendment. Since this comment does not address the adequacy of the Draft SEIR or CEQA requirements, it will be forwarded to decision-makers for consideration.

## 2. Response to Comments

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## 2. Response to Comments

LETTER I19 – Eric Sanders (4 pages)

**From:** Sanders\_Eric [mailto:Sanders\_Eric@Allergan.com]  
**Sent:** Thursday, May 01, 2014 4:24 PM  
**To:** Ramirez, Gregg  
**Cc:** Sanders\_Eric; Joy Sanders; sanders.jeff41@gmail.com; katie sanders; sanders.jeff41@gmail.com; eric.sanders@sbcglobal.net; Ramirez, Gregg  
**Subject:** General Plan Amendment Request  
**Importance:** High

Dear Mr. Greg Ramirez,

First and foremost, I wish to thank you and the city organization of Newport Beach for accepting input on matters related to citizen concerns about changes or exceptions to the General Plan.

I19-0 Intro

Though I will list a somewhat exhaustive list of many recommendations/worries/concerns, I would highlight a few **areas of greatest concern** for me and for my neighbors.

1. Ensuring commercial enterprises who are adjacent to residential properties (shared alley, etc.) are restricted in scope of operations to traditional business days and hours (Monday – Friday, 8am to 5pm).
2. Ensuring that such businesses **do not use** the alley side of said properties for deliveries, customer parking, employee parking, exhaust fume distribution, or any other purpose which is disruptive to the adjoining homes / residential units which share the said alley.
3. Ensuring that all such commercial enterprises are barred from allowing, encouraging or planning for the use of residential parking areas as overflow parking for their employees or customers. This third and final item of my “top three concerns” is indeed the most disturbing in my opinion. **The safety for all parties is at risk when very specific commercial parking and resident parking designated areas are not strictly identified and enforced.**

I19-1

I19-2

I19-3

A comprehensive list of all items which are of concern to me is as follows:

This letter addresses residential concerns associated with commercial development abutting residential designated properties and proposes changes to the General Plan Amendment

I19-4

## 2. Response to Comments

(November-2014 Public Vote) to minimize the residential concerns for :

- A. Limiting all vehicular access (ingress and egress) to the completed commercial sites to the commercial street side and not from shared commercial/residential alleys.
- B. Noise and safety concerns from commercial deliveries/trash pickup,
- C. Parking on residential streets instead of utilization of assigned commercial parking
- D. Increased traffic volume on residential streets and shared commercial/residential alleys, with associated safety concerns.
- E. Health and noise associated with employees smoking and conducting personal/commercial business on cell phones in common shared street or residential alley.
- F. Noise, safety and health intrusions associated with site installed mechanical equipment (such as Heating Ventilating and Air Conditioning HVAC, pumps, ventilation from enclosed parking, etc.)

**It is requested that the following be incorporated into the General Plan Amendment (November-2014 Public Vote) :**

N4.3 – New Commercial Developments { defined as new initial development of a previously undeveloped sites or redevelopment of a previous developed site } (NCD) require that new commercial development abutting residential designated properties be designed to minimize limited vehicular access (ingress and egress from the street and not shared alleys ) and impacts to health, safety and noise generated by loading areas, parking lots, trash enclosures, mechanical equipment, and any other noise generating features specific to the development to the extent feasible.

- I. Development/redevelopment for these NCD sites shall be limited to the historical usage. Example : If the type of business conducted at the sites has been from 8:00 AM to 5:00 PM with minimal or no business on weekends (and no Sunday business), then these sites shall be limited to the historical usage.
- II. During NCD development/redevelopment construction , all deliveries/pickups (materials, construction trash, etc.) to the site shall be restricted to the commercial street side of the site and prohibited from any alley shared by the commercial site and the residences and limited to 8:00am to 5:00pm.
- III. No vehicular access to the completed NCD site (ingress and egress) from the alley adjacent to the residential area shall be permitted. No vehicular parking on the alley adjacent to the residential area shall be permitted. All vehicular access to the completed NCD site shall occur from the commercial street side of the NCD.

I19-4  
cont'd



## 2. Response to Comments

- IV. Trash pickup from the completed NCD site shall be restricted to the commercial street side of the site and prohibited from any alley shared by the commercial site and the residences. Additionally, all deliveries/pickups (business, laboratory specimens, supplies, etc.) shall be restricted to commercial street side of the site and prohibited from any alley shared by the commercial site and the residences. Hours shall be limited to 8:00am to 5:00pm.
- V. No on-street parking credit shall be granted for NCD's abutting residences.
- VI. Employee Parking Spaces shall be required and designated with posted signage stating "Employee Parking Only" .
- VII. The storage of vehicles/trailers on decorative paving, defined landscape areas or parking spaces shall be prohibited.
- VIII. Parking shall be prohibited on any area specified as decorative paving or landscape area by signage.
- IX. An on-site employee area for smoking and conducting personal business on cell phones shall be established away from the commonly shared street or residential alley.
- X. Lighting impacts and privacy concerns of adjacent residential properties for NCD sites shall be minimized (such as automated internal shades set to close in the evening and an internal lighting system that auto-dims after standard working hours, leaving limited task lights illuminated for janitorial activities).
- XI. Noise, safety and health intrusions associated with installed site mechanical equipment (such as Heating Ventilating and Air Conditioning --HVAC, pumps, ventilation from enclosed parking, etc.) shall be minimized (such as installed with a timing device that will deactivate the equipment during the hours of 05:00PM to 08:00AM).

119-4  
cont'd

Again, I wish to thank you for the acceptance of input from myself and other city residents.

Sincerely,

Eric Edward Sanders  
Joy Stringham Sanders  
Kathryn Sanders  
Jefferson Edward Stringham Sanders

## 2. Response to Comments

Jackson Stringham Sanders  
400 Holmwood Drive  
Newport Beach, CA 92663  
949-466-5502

This e-mail, including any attachments, is meant only for the intended recipient and may be a confidential communication or a communication privileged by law. If you received this e-mail in error, any review, use, dissemination, distribution, or copying of this e-mail is strictly prohibited. Please notify the sender immediately of the error by return e-mail and please delete this message from your system. Thank you in advance for your cooperation.

## 2. Response to Comments

### **I19. Response to Comments from Eric Sanders, dated May 1, 2014.**

- I19-1 This letter expresses several concerns with respect to commercial development abutting residential land uses. Specific General Plan policy language is recommended to be added to the proposed LUE Amendment. Since this comment does not address the adequacy of the Draft SEIR or CEQA requirements, it will be forwarded to decision-makers for consideration.
- I19-2 Please refer to Response I19-1.
- I19-3 Please refer to Response I19-1.
- I19-4 Please refer to Response I19-1.

## 2. Response to Comments

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## 2. Response to Comments

LETTER I20 – Margaret Chapman (3 pages)

**From:** Marge Chapman [mailto:mchapman417@gmail.com]  
**Sent:** Thursday, May 01, 2014 6:28 PM  
**To:** Ramirez, Gregg  
**Cc:** Marge Chapman  
**Subject:** General Plan Amendment (November 2014 Public Vote)

Dear Mr. Greg Ramirez,

I have been a resident of NB for 65 years and have seen the growth and development of the city. It is imperative that we properly control the development and redevelopment to maintain our beautiful NB. I have specific concerns associated with commercial development abutting residential designated properties. Please incorporate into the **General Plan Amendment (November-2014 Public Vote)** all items specified below.

Intro

Please provide copies of this letter to Members of the City Council and the Planning Commission.

**Margaret Chapman**

This letter addresses residential concerns associated with commercial development abutting residential designated properties and proposes changes to the General Plan Amendment (November-2014 Public Vote) to minimize the residential concerns for :

- A. Limiting all vehicular access (ingress and egress) to the completed commercial sites to the commercial street side and not from shared commercial/residential alleys.
- B. Noise and safety concerns from commercial deliveries/trash pickup,
- C. Parking on residential streets instead of utilization of assigned commercial parking
- D. Increased traffic volume on residential streets and shared commercial/residential alleys, with associated safety concerns.
- E. Health and noise associated with employees smoking and conducting personal/commercial business on cell phones in common shared street or residential alley.
- F. Noise, safety and health intrusions associated with site installed mechanical equipment (such as Heating Ventilating and Air Conditioning HVAC, pumps, ventilation from enclosed parking, etc.)

I20-1

## 2. Response to Comments

It is requested that the following be incorporated into the General Plan Amendment (November-2014 Public Vote) :

N4.3 – New Commercial Developments { defined as new initial development of a previously undeveloped sites or redevelopment of a previous developed site } (NCD) require that new commercial development abutting residential designated properties be designed to minimize limited vehicular access (ingress and egress from the street and not shared alleys ) and impacts to health, safety and noise generated by loading areas, parking lots, trash enclosures, mechanical equipment, and any other noise generating features specific to the development to the extent feasible.

1) Development/redevelopment for these NCD sites shall be limited to the historical usage. Example : If the type of business conducted at the sites has been from 8:00 AM to 5:00 PM with minimal or no business on weekends (and no Sunday business), then these sites shall be limited to the historical usage.

2) During NCD development/redevelopment construction , all deliveries/pickups (materials, construction trash, etc.) to the site shall be restricted to the commercial street side of the site and prohibited from any alley shared by the commercial site and the residences and limited to 8:00am to 5:00pm.

3) No vehicular access to the completed NCD site (ingress and egress) from the alley adjacent to the residential area shall be permitted. No vehicular parking on the alley adjacent to the residential area shall be permitted. All vehicular access to the completed NCD site shall occur from the commercial street side of the NCD.

4) Trash pickup from the completed NCD site shall be restricted to the commercial street side of the site and prohibited from any alley shared by the commercial site and the residences. Additionally, all deliveries/pickups (business, laboratory specimens, supplies, etc.) shall be restricted to commercial street side of the site and prohibited from any alley shared by the commercial site and the residences. Hours shall be limited to 8:00am to 5:00pm.

5) No on-street parking credit shall be granted for NCD's abutting residences.

6) Employee Parking Spaces shall be required and designated with posted signage stating "Employee Parking Only" .

7) The storage of vehicles/trailers on decorative paving, defined landscape areas or parking spaces shall be prohibited.

I20-1

## 2. Response to Comments

8) Parking shall be prohibited on any area specified as decorative paving or landscape area by signage.

9) An on-site employee area for smoking and conducting personal business on cell phones shall be established away from the commonly shared street or residential alley.

10) Lighting impacts and privacy concerns of adjacent residential properties for NCD sites shall be minimized (such as automated internal shades set to close in the evening and an internal lighting system that auto-dims after standard working hours, leaving limited task lights illuminated for janitorial activities).

11) Noise, safety and health intrusions associated with installed site mechanical equipment (such as Heating Ventilating and Air Conditioning --HVAC, pumps, ventilation from enclosed parking, etc) shall be minimized (such as installed with a timing device that will deactivate the equipment during the hours of 05:00PM to 08:00AM).

I20-1

## 2. Response to Comments

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## 2. Response to Comments

### **I20. Response to Comments from Margaret Chapman, dated May 1, 2014.**

- I20-1 This letter expresses several concerns with respect to commercial development abutting residential land uses. Specific General Plan policy language is recommended to be added to the proposed LUE Amendment. Since this comment does not address the adequacy of the Draft SEIR or CEQA requirements, it will be forwarded to decision-makers for consideration.

## 2. Response to Comments

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## 2. Response to Comments

LETTER I21 – CarouselPress (3 pages)

**From:** carouselpress@netzero.com [mailto:carouselpress@netzero.com]  
**Sent:** Friday, May 02, 2014 8:15 AM  
**To:** Ramirez, Gregg  
**Cc:** tomlubaker@hotmail.com  
**Subject:** General Plan Amendment (November 2014 Public Vote)

Dear Mr. Greg Ramirez,

Please provide copies of this letter to Members of the City Council and the Planning Commission.

This letter addresses residential concerns associated with commercial development abutting residential designated properties and proposes changes to the General Plan Amendment (November-2014 Public Vote) to minimize the residential concerns for :

- A. Limiting all vehicular access (ingress and egress) to the completed commercial sites to the commercial street side and not from shared commercial/residential alleys.
- B. Noise and safety concerns from commercial deliveries/trash pickup.
- C. Parking on residential streets instead of utilization of assigned commercial parking
- D. Increased traffic volume on residential streets and shared commercial/residential alleys, with associated safety concerns.
- E. Health and noise associated with employees smoking and conducting personal/commercial business on cell phones in common shared street or residential alley.
- F. Noise, safety and health intrusions associated with site installed mechanical equipment (such as Heating Ventilating and Air Conditioning HVAC, pumps, ventilation from enclosed parking, etc.)

Intro

It is requested that the following be incorporated into the General Plan Amendment (November-2014 Public Vote) :

I21-1

## 2. Response to Comments

N4.3 ♦ New Commercial Developments {defined as new initial development of a previously undeveloped sites or redevelopment of a previous developed site} (NCD) require that new commercial development abutting residential designated properties be designed to minimize limited vehicular access (ingress and egress from the street and not shared alleys )and impacts to health, safety and noise generated by loading areas, parking lots, trash enclosures, mechanical equipment, and any other noise generating features specific to the development to the extent feasible.

1) Development/redevelopment for these NCD sites shall be limited to the historical usage. Example : If the type of business conducted at the sites has been from 8:00 AM to 5:00 PM with minimal or no business on weekends (and no Sunday business), then these sites shall be limited to the historical usage.

2) During NCD development/redevelopment construction , all deliveries/pickups (materials, construction trash, etc.) to the site shall be restricted to the commercial street side of the site and prohibited from any alley shared by the commercial site and the residences and limited to 8:00am to 5:00pm.

3) No vehicular access to the completed NCD site (ingress and egress) from the alley adjacent to the residential area shall be permitted. No vehicular parking on the alley adjacent to the residential area shall be permitted. All vehicular access to the completed NCD site shall occur from the commercial street side of the NCD.

4) Trash pickup from the completed NCD site shall be restricted to the commercial street side of the site and prohibited from any alley shared by the commercial site and the residences. Additionally, all deliveries/pickups (business, laboratory specimens, supplies, etc.) shall be restricted to commercial street side of the site and prohibited from any alley shared by the commercial site and the residences. Hours shall be limited to 8:00am to 5:00pm.

5) No on-street parking credit shall be granted for NCD's abutting residences.

6) Employee Parking Spaces shall be required and designated with posted signage stating ♦Employee Parking Only♦ .

7) The storage of vehicles/trailers on decorative paving, defined landscape areas or parking spaces shall be prohibited.

8) Parking shall be prohibited on any area specified as decorative paving or landscape area by signage.

9) An on-site employee area for smoking and conducting personal business on cell phones shall be established away from the commonly shared street or residential alley.

10) Lighting impacts and privacy concerns of adjacent residential properties for NCD sites shall be minimized (such as automated internal shades set to close in the evening and an internal lighting system that auto-dims after standard working hours, leaving limited task lights illuminated for janitorial activities).

I21-1  
cont'd

## 2. Response to Comments

11) Noise, safety and health intrusions associated with installed site mechanical equipment (such as Heating Ventilating and Air Conditioning --HVAC, pumps, ventilation from enclosed parking, etc) shall be minimized (such as installed with a timing device that will deactivate the equipment during the hours of 05:00PM to 08:00AM).

I21-1  
cont'd

## 2. Response to Comments

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## 2. Response to Comments

### **I21. Response to Comments from CarouselPress, dated May 2, 2014.**

- I21-1 This letter expresses several concerns with respect to commercial development abutting residential land uses. Specific General Plan policy language is recommended to be added to the proposed LUE Amendment. Since this comment does not address the adequacy of the Draft SEIR or CEQA requirements, it will be forwarded to decision-makers for consideration.

## 2. Response to Comments

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## 2. Response to Comments

### LETTER I22 – Kathryn Olsen (2 pages)

**From:** Kathryn Olsen [mailto:katesolsen@yahoo.com]  
**Sent:** Friday, May 02, 2014 2:48 PM  
**To:** Ramirez, Gregg  
**Subject:** Residential Concerns

Dear Mr. Greg Ramirez,

Please provide copies of this letter to Members of the City Council and the Planning Commission.

This letter addresses residential concerns associated with commercial development abutting residential designated properties and proposes changes to the General Plan Amendment (November-2014 Public Vote) to minimize the residential concerns for :

- A. Limiting all vehicular access (ingress and egress) to the completed commercial sites to the commercial street side and not from shared commercial/residential alleys.
- B. Noise and safety concerns from commercial deliveries/trash pickup,
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- D. Increased traffic volume on residential streets and shared commercial/residential alleys, with associated safety concerns.
- E. Health and noise associated with employees smoking and conducting personal/commercial business on cell phones in common shared street or residential alley.
- F. Noise, safety and health intrusions associated with site installed mechanical equipment (such as Heating Ventilating and Air Conditioning HVAC, pumps, ventilation from enclosed parking, etc.)

Sincerely,  
Frank and Kathryn Olsen

It is requested that the following be incorporated into the General Plan Amendment (November-2014 Public Vote) :

N4.3 – New Commercial Developments (defined as new initial development of a previously undeveloped site or redevelopment of a previous developed site) (NCD) require that new commercial development abutting residential designated properties be designed to minimize limited vehicular access (ingress and egress from the street and not shared alleys) and impacts to health, safety and noise generated by loading areas, parking lots, trash enclosures, mechanical equipment, and any other noise generating features specific to the development to the extent feasible.

Intro

I22-1

## 2. Response to Comments

- 1) Development/redevelopment for these NCD sites shall be limited to the historical usage.  
Example : If the type of business conducted at the sites has been from 8:00 AM to 5:00 PM with minimal or no business on weekends (and no Sunday business), then these sites shall be limited to the historical usage.
- 2) During NCD development/redevelopment construction , all deliveries/pickups (materials, construction trash, etc.) to the site shall be restricted to the commercial street side of the site and prohibited from any alley shared by the commercial site and the residences and limited to 8:00am to 5:00pm.
- 3) No vehicular access to the completed NCD site (ingress and egress) from the alley adjacent to the residential area shall be permitted. No vehicular parking on the alley adjacent to the residential area shall be permitted. All vehicular access to the completed NCD site shall occur from the commercial street side of the NCD.
- 4) Trash pickup from the completed NCD site shall be restricted to the commercial street side of the site and prohibited from any alley shared by the commercial site and the residences. Additionally, all deliveries/pickups (business, laboratory specimens, supplies, etc.) shall be restricted to commercial street side of the site and prohibited from any alley shared by the commercial site and the residences. Hours shall be limited to 8:00am to 5:00pm.
- 5) No on-street parking credit shall be granted for NCD's abutting residences.
- 6) Employee Parking Spaces shall be required and designated with posted signage stating "Employee Parking Only" .
- 7) The storage of vehicles/trailers on decorative paving, defined landscape areas or parking spaces shall be prohibited.
- 8) Parking shall be prohibited on any area specified as decorative paving or landscape area by signage.
- 9) An on-site employee area for smoking and conducting personal business on cell phones shall be established away from the commonly shared street or residential alley.
- 10) Lighting impacts and privacy concerns of adjacent residential properties for NCD sites shall be minimized (such as automated internal shades set to close in the evening and an internal lighting system that auto-dims after standard working hours, leaving limited task lights illuminated for janitorial activities).
- 11) Noise, safety and health intrusions associated with installed site mechanical equipment (such as Heating Ventilating and Air Conditioning --HVAC, **pumps, ventilation from enclosed parking, etc**) shall **be minimized (such as** installed with a timing device that will deactivate the equipment during the hours of 05:00PM to 08:00AM).

I22-1  
Cont'd

## 2. Response to Comments

### **I22. Response to Comments from Kathryn Olsen, dated May 2, 2014.**

- I22-1 This letter expresses several concerns with respect to commercial development abutting residential land uses. Specific General Plan policy language is recommended to be added to the proposed LUE Amendment. Since this comment does not address the adequacy of the Draft SEIR or CEQA requirements, it will be forwarded to decision-makers for consideration.

## 2. Response to Comments

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## 2. Response to Comments

LETTER I23 – Tom Adams (2 pages)

This is another of that duplicate comment. Please include. This is the last one.

-----Original Message-----

From: tadams62@roadrunner.com [mailto:tadams62@roadrunner.com]

Sent: Sunday, May 11, 2014 2:05 PM

To: Ramirez, Gregg

Subject: General Plan Amendment (November 2014 Public Vote)

Dear Mr. Greg Ramirez, Please provide copies of this letter to Members of the City Council and the Planning Commission.

We, Tom and Isela Adams, live at 416 Westminster Ave, Newport Beach.

My neighbors and we have discussed the items/concerns listed below.

This letter addresses residential concerns associated with commercial development abutting residential designated properties and proposes changes to the General Plan Amendment (November-2014 Public Vote) to minimize the residential concerns for :

- A. Limiting all vehicular access (ingress and egress) to the completed commercial sites to the commercial street side and not from shared commercial/residential alleys.

- B. Noise and safety concerns from commercial deliveries/trash pickup,
- C. Parking on residential streets instead of utilization of assigned commercial parking
- D. Increased traffic volume on residential streets and shared commercial/residential alleys, with associated safety concerns.
- E. Health and noise associated with employees smoking and conducting personal/commercial business on cell phones in common shared street or residential alley.
- F. Noise, safety and health intrusions associated with site installed mechanical equipment (such as Heating Ventilating and Air Conditioning HVAC, pumps, ventilation from enclosed parking, etc.)

It is requested that the following be incorporated into the General Plan Amendment (November-2014 Public Vote) : N4.3 – New Commercial Developments { defined as new initial development of a previously undeveloped sites or redevelopment of a previous developed site } (NCD) require that new commercial development abutting residential designated properties be designed to minimize limited vehicular access (ingress and egress from the street and not shared alleys ) and impacts to health, safety and noise generated by loading areas, parking lots, trash enclosures, mechanical equipment, and any other noise generating features specific to the development to the extent feasible.

- 1) Development/redevelopment for these NCD sites shall be limited to the historical usage. Example : If the type of business conducted at the sites has been from 8:00 AM to 5:00 PM with minimal or no business on weekends (and no Sunday business), then these sites shall be limited to the historical usage.
- 2) During NCD development/redevelopment construction , all deliveries/pickups (materials, construction trash, etc.) to the site shall be restricted to the commercial street side of the site and prohibited from any alley shared by the commercial site and the residences and limited to 8:00am to 5:00pm.
- 3) No vehicular access to the completed NCD site (ingress and egress) from the alley adjacent to the residential area shall be permitted. No vehicular parking on the alley adjacent to the residential area shall be permitted. All vehicular access to the completed NCD site shall occur from the commercial street side of the NCD.
- 4) Trash pickup from the completed NCD site shall be restricted to the commercial street side of the

Intro

I23-1

## 2. Response to Comments

site and prohibited from any alley shared by the commercial site and the residences. Additionally, all deliveries/pickups (business, laboratory specimens, supplies, etc.) shall be restricted to commercial street side of the site and prohibited from any alley shared by the commercial site and the residences. Hours shall be limited to 8:00am to 5:00pm.

5) No on-street parking credit shall be granted for NCD's abutting residences.

6) Employee Parking Spaces shall be required and designated with posted signage stating "Employee Parking Only" .

7) The storage of vehicles/trailers on decorative paving, defined landscape areas or parking spaces shall be prohibited.

8) Parking shall be prohibited on any area specified as decorative paving or landscape area by signage.

9) An on-site employee area for smoking and conducting personal business on cell phones shall be established away from the commonly shared street or residential alley.

10) Lighting impacts and privacy concerns of adjacent residential properties for NCD sites shall be minimized (such as automated internal shades set to close in the evening and an internal lighting system that auto-dims after standard working hours, leaving limited task lights illuminated for janitorial activities).

11) Noise, safety and health intrusions associated with installed site mechanical equipment (such as Heating Ventilating and Air Conditioning --HVAC, pumps, ventilation from enclosed parking, etc) shall be minimized (such as installed with a timing device that will deactivate the equipment during the hours of 05:00PM to 08:00AM).

Thank you for your support  
Tom and Isela Adams  
416 Westminster Ave  
Newport Beach.

I23-1  
cont'd

## 2. Response to Comments

### **I23. Response to Comments from Tom Adams, dated May 11, 2014.**

- I23-1 This letter expresses several concerns with respect to commercial development abutting residential land uses. Specific General Plan policy language is recommended to be added to the proposed LUE Amendment. Since this comment does not address the adequacy of the Draft SEIR or CEQA requirements, it will be forwarded to decision-makers for consideration.

## 2. Response to Comments

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## 3. Revisions to the Draft SEIR

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### 3.1 INTRODUCTION

This section contains revisions to the Draft SEIR based upon (1) additional or revised information required to prepare a response to a specific comment; (2) applicable updated information that was not available at the time of Draft SEIR publication; and/or (3) typographical errors. This section also includes additional mitigation measures to fully respond to commenter concerns as well as provide additional clarification to mitigation requirements included in the Draft SEIR. The provision of these additional mitigation measures does not alter any impact significance conclusions as disclosed in the Draft SEIR. Changes made to the Draft SEIR are identified here in ~~strikeout text~~ to indicate deletions and in underlined text to signify additions.

### 3.2 DRAFT SEIR REVISIONS IN RESPONSE TO WRITTEN COMMENTS

The following text has been revised in response to comments received on the Draft SEIR.

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**Page 3-1, Chapter 3, *Project Description*. The following text has been modified in response to Comment I14A-8 from Jim Mosher.**

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The City is situated along the southwestern boundary of Orange County in Southern California abutting the Pacific Ocean.

### 3. Revisions to the Draft SEIR

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## 3. Revisions to the Draft SEIR

Page 3-9, Table 3-1, *Proposed Land Use Changes, Chapter 3, Project Description*. The following table has been modified in response to Comments O3B-2 and O3B-3 from Starpointe Ventures and Comments O6-5 and O6-11 from Still Protecting Our Newport.

Table 3-1 Proposed Land Use Changes

AREAS WITH REDUCED DEVELOPMENT CAPACITY								
Map Reference	Location	Planning Subarea	2006 General Plan		Existing	Proposed Changes		
			Designation	Allowable		Designation	Increase/ (Reduction)	Remaining
3	Westcliff Plaza 1000–1150 Irvine Avenue	Not Applicable	Neighborhood Commercial (CN)	138,500 SF	112,986 SF	No Change	(15,514 SF)	10,000 SF
6	Newport Coast Center 21101–21185 Newport Coast Drive	Not Applicable	Neighborhood Commercial (CN)	141,787 SF	103,712 SF	No Change	(37,875 SF)	200 SF
7	Newport Coast Hotel	Not Applicable	Visitor-Serving Commercial (CV)	2,150 rooms	1,104 rooms	No Change	(1,001 rooms)	45 rooms
8	Bayside Center 900–1090 Bayside Drive	Not Applicable	Neighborhood Commercial (CN)	66,000 SF	65,284 SF	No Change	(366 SF)	350 SF
9	Harbor View Center 1610–1666 San Miguel Drive	Not Applicable	Neighborhood Commercial (CN)	74,000 SF	71,993 SF	No Change	(1,857 SF)	150 SF
10	The Bluffs 1302–1380 Bison Avenue	Not Applicable	General Commercial (CG)	54,000 SF	50,312 SF	No Change	(3,538 SF)	150 SF
11	Gateway Park 3531 Newport Boulevard	Balboa Peninsula, Lido Village, Cannery Village, McFadden Square	Commercial Corridor (CC)	4,356 SF	0	Parks and Recreation (PR)	(4,356 SF)	0

### 3. Revisions to the Draft SEIR

**Table 3-1 Proposed Land Use Changes**

15	Newport Ridge (various locations)	Not Applicable	Multi-Unit Residential (RM) Single Unit Residential Detached (RS-D)	2,550 DUs	2,187 DUs	No Change	(356 DUs)	7 DUs
<b>AREAS WITH INCREASED DEVELOPMENT CAPACITY</b>								
Map Reference	Location	Neighborhood	2006 General Plan		Existing	Proposed Changes		
			Designation	Allowable		Designation	Capacity	Increase /(Decrease)
5	Newport Center/ Fashion Island	Newport Center/ Fashion Island	Regional Commercial (CR), Regional Commercial Office (CO-R), Medical Commercial Office (CO-M), Mixed Use Horizontal (MU- H3), Visitor-Serving Commercial (CV), Multi-Unit Residential (RM)	Various	Retail, Office, Residential, Hotel	No Change	Varies	Regional Office 500,000 SF; Regional Commercial 50,000 SF; Multi-Family 500 units
17	150 Newport Center Drive	Newport Center/ Fashion Island	Regional Commercial Office (CO-R)	8,500 SF	8,500 SF Car Wash	Mixed-Use Horizontal (MU-H3)	125 hotel rooms (24.8 K SF Commercial)	125 hotel rooms (24.8 K SF Commercial)
18	100 Newport Center Drive	Newport Center/ Fashion Island	Regional Commercial Office (CO-R)	17,500 SF	17,500 SF Museum	Mixed-Use Horizontal (MU-H3)	32,500 SF	15,000 SF
12	Harbor Day School 3443 Pacific View Drive	Not Applicable	Private Institutional	.35 FAR 408 Students	99,708 SF 408 Students	No Change	.40 FAR 480 Students	14,244 SF 72 Students
Map Reference	Location	Neighborhood	2006 General Plan		Existing	Proposed Changes		
			Designation	Allowable		Designation	Capacity	Increase /(Decrease)
Map Reference	Location	Neighborhood	2006 General Plan	Existing	Proposed Changes	Map Reference	Capacity	Increase/(Decrease)

### 3. Revisions to the Draft SEIR

**Table 3-1 Proposed Land Use Changes**

4	A: Saunders Properties	Airport Area	Airport Office and Supporting Uses (AO)	306,923 SF Office and Auto Rental Facilities	306,923 SF Office and Auto Rental Facilities	Mixed Use Horizontal (MU-H2)	545,000 SF office 329 DUs	238,077 SF 329 DUs
	B: The Hangars	Airport Area	General Commercial Office (CO-G)	288,264 SF Office	288,264 SF Office	General Commercial (CG)	278,264 SF office	11,800 SF retail
	C: Lyon Communities	Airport Area	Mixed Use Horizontal (MU-H2)	250,176 SF Office	250,176 SF Office	No Change	Retail: 85K SF Res: 850 replacement DUs Hotel: 150 rms	Retail: 85K SF Res: 850 replacement DUs Hotel: 150 rms
	D: UAP Companies 4699 Jamboree Road and 5190 Campus Drive	Airport Area	Mixed Use Horizontal (MU-H2)	46,044 SF Office	46,044 SF Office	Mixed Use Horizontal (MU-H2)	Mixed Use: 46,044 SF Congregate Care: 148,000 SF	Revise Anomaly #6 to allow 2.0 FAR if trip neutral congregate care
16	Promontory Point Apartments 200 Promontory Drive West	Not Applicable	Multiple Residential (RM) 520 DUs	520 DUs	520 DUs	No Change	570 DUs	500 DUs

**AREAS WITH CHANGE OF LAND USE DESIGNATION AND INCREASED DEVELOPMENT CAPACITY**

Map Reference	Location	Planning Sub-Area	2006 General Plan		Existing	Proposed Changes	
			Designation	Allowable		Designation	Density
1	1526 Placentia Avenue (King's Liquor)	West Newport Mesa	Multi-Unit Residential (RM)	18 DU/AC	Retail: 7,524 SF	General Commercial (CG)	0.5 FAR
2	813 East Balboa Boulevard	Balboa Village	Two-Unit Residential (RT)	2 units	Day Spa: 1,917 SF	Mixed-Use Vertical (MU-V)	0.75 FAR

### 3. Revisions to the Draft SEIR

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### 3. Revisions to the Draft SEIR

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Page 5.5-36, Section 5.5, *Hazards and Hazardous Materials*. The following text is added in response to Comment A4-3 from the Orange County Airport Land Use Commission.

---

There are two types of height restrictions surrounding John Wayne Airport pursuant to FAA Part 77 Regulations:

- **Notification Areas** are used by the FAA to help identify projects that may interfere with airport operations. The notification area for John Wayne Airport extends outward from the runways 20,000 feet (about 3.8 miles) at a slope of 100:1. The FAA conducts an aeronautical study for any proposed structure within the notification area that would exceed the 1:100 slope to determine whether the structure would be a hazard to air navigation. The JWA runway elevation is 56 feet amsl; thus, the elevation at the outer edge of the notification area is 256 feet amsl. Most of the central and northern parts of the City, including all of the Airport Area and most of the Newport Center/Fashion Island area, are within the Notification Area (OCALUC 2008).
- **Imaginary Surfaces** are defined by means of elevations, heights, and slopes in relation to individual airports, the spaces above which are reserved to air navigation. All building height restrictions will have as their ultimate limits the imaginary surfaces pursuant to FAA Part 77 Regulations.

The following Areas of Change are within the Notification Area for John Wayne Airport. Approximate elevations beyond which FAA notification is required are estimated for each area.

- **Airport Area:** All. The notification elevation ranges from approximately 61 feet amsl (that is, about 11 feet above ground level [agl]) along the northwest boundary of the Airport Area along Campus Drive south of MacArthur Boulevard to approximately 103 feet amsl—that is, 54 feet agl—at the south corner of the Airport Area at the northwest corner of Jamboree Road and Bristol Street North. The notification elevation calculation for the south corner of the Airport Area is as follows: The south corner is approximately 4,700 feet from the nearest JWA runway. The notification area slope is 1:100, so the notification elevation at the south corner is  $4,700/100 = 47$  feet + the airfield elevation (56 feet), for a total of 103 feet. The south corner is about 49 feet amsl, so the notification elevation is about  $103 - 49 = 54$  feet above ground level.
- **The Bluffs:** The notification elevation is about 164 feet amsl, or 18 feet agl.
- **Newport Center/Fashion Island Area:** The part of this area north of the intersection of Newport Center Drive with Anacapa Drive. The notification elevation ranges from about 212 feet amsl, or 90 feet agl, at the north end of the Newport Center/Fashion Island area, to 256 feet amsl, that is, 92 feet agl, at the aforementioned intersection.
- **Westcliff Plaza:** The notification elevation is about 244 feet amsl, that is, 154 feet agl.

### 3. Revisions to the Draft SEIR

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**Page 5.11-1, Section 5.11, *Transportation and Traffic*. The following text has been modified in response to Comment I13-17 from Debbie Stevens.**

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The analysis in this section is based in part on the City of Newport Beach General Plan Land Use Element Amendment Traffic Impact Analysis, prepared by Urban Crossroads on March 11, 2014. A complete copy of this study is included in the Technical Appendices to this Draft SEIR (Appendix JI).

### 3.3 REVISED AND NEW FIGURES

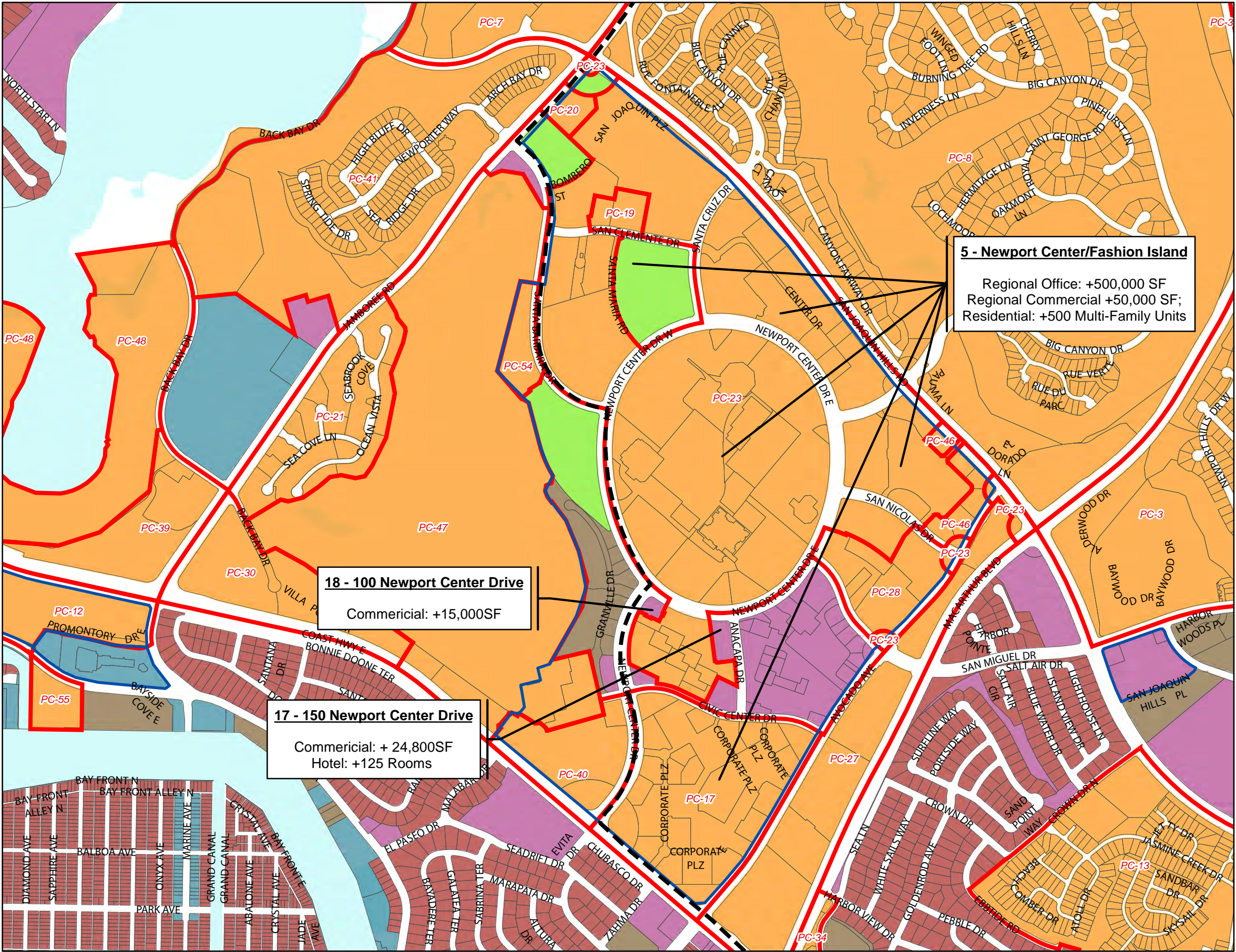
The report figures that follow are revisions of figures that already appear in the Draft SEIR (as indicated) or new figures provided for clarification to respond to comments.



# 5. Environmental Analysis

Figure 5.1-2

## Planned Communities within Newport Center/Fashion Island



Source: City of Newport Beach, 2013





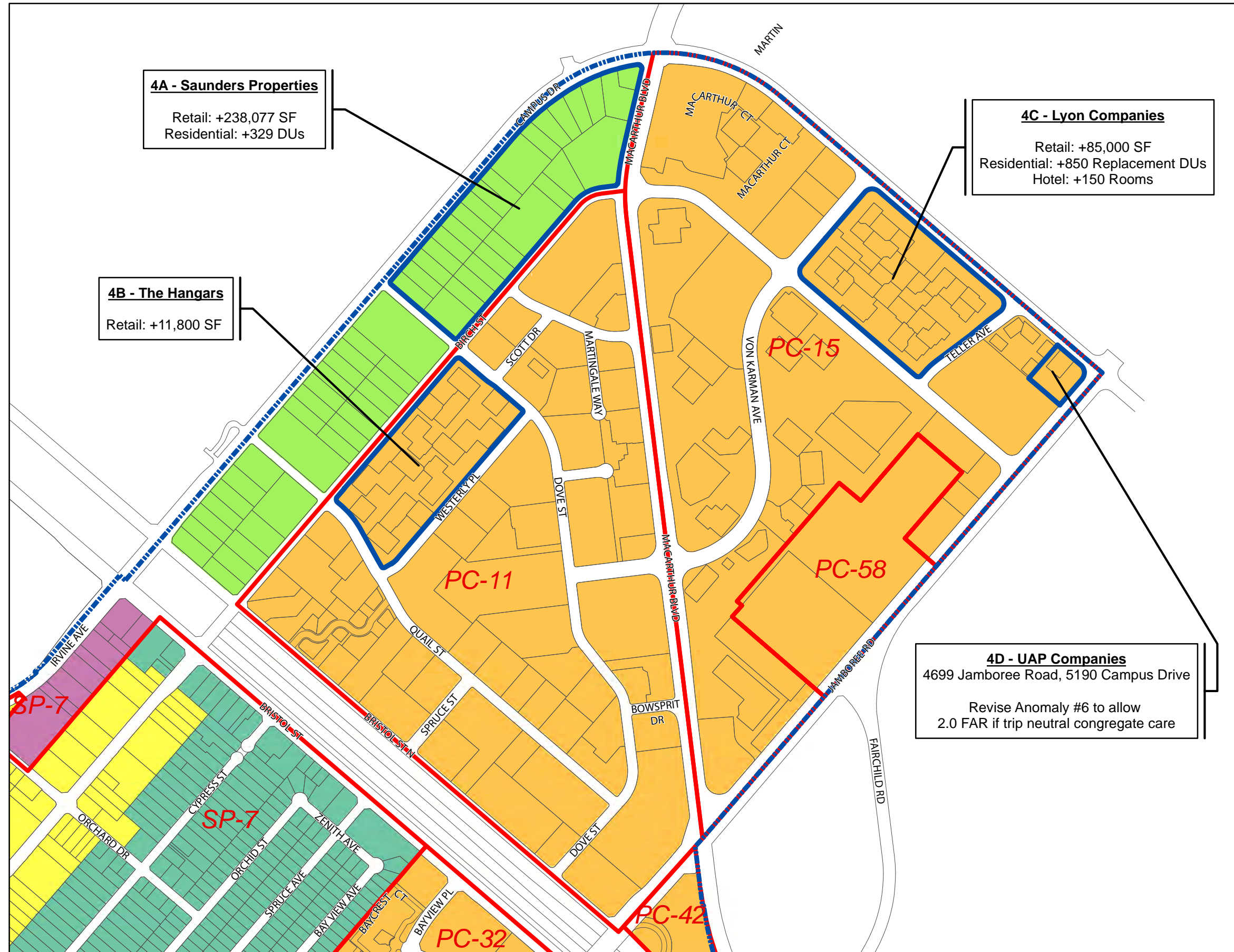
### 3. Revisions to the Draft SEIR

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# 5. Environmental Analysis

Figure 5.1-3

## Planned Communities within Airport Area



City Boundary

PC Boundaries

Areas of Change

### Height Restriction Zones

- 18'
- 24' Flat / 29' Sloped
- 26' Flat / 31' Sloped
- 28' Flat / 33' Sloped
- 32' Flat / 37' Sloped
- 35'
- 35' / max 2 stories
- Highrise 300'
- SEE NOTES
- SEE PC TEXT



Land Use Element Update

**Supplemental EIR**



CNB - 15.0 5/12/2014 10:43:13 AM  
0 250 500 1,000 Feet

### 3. Revisions to the Draft SEIR

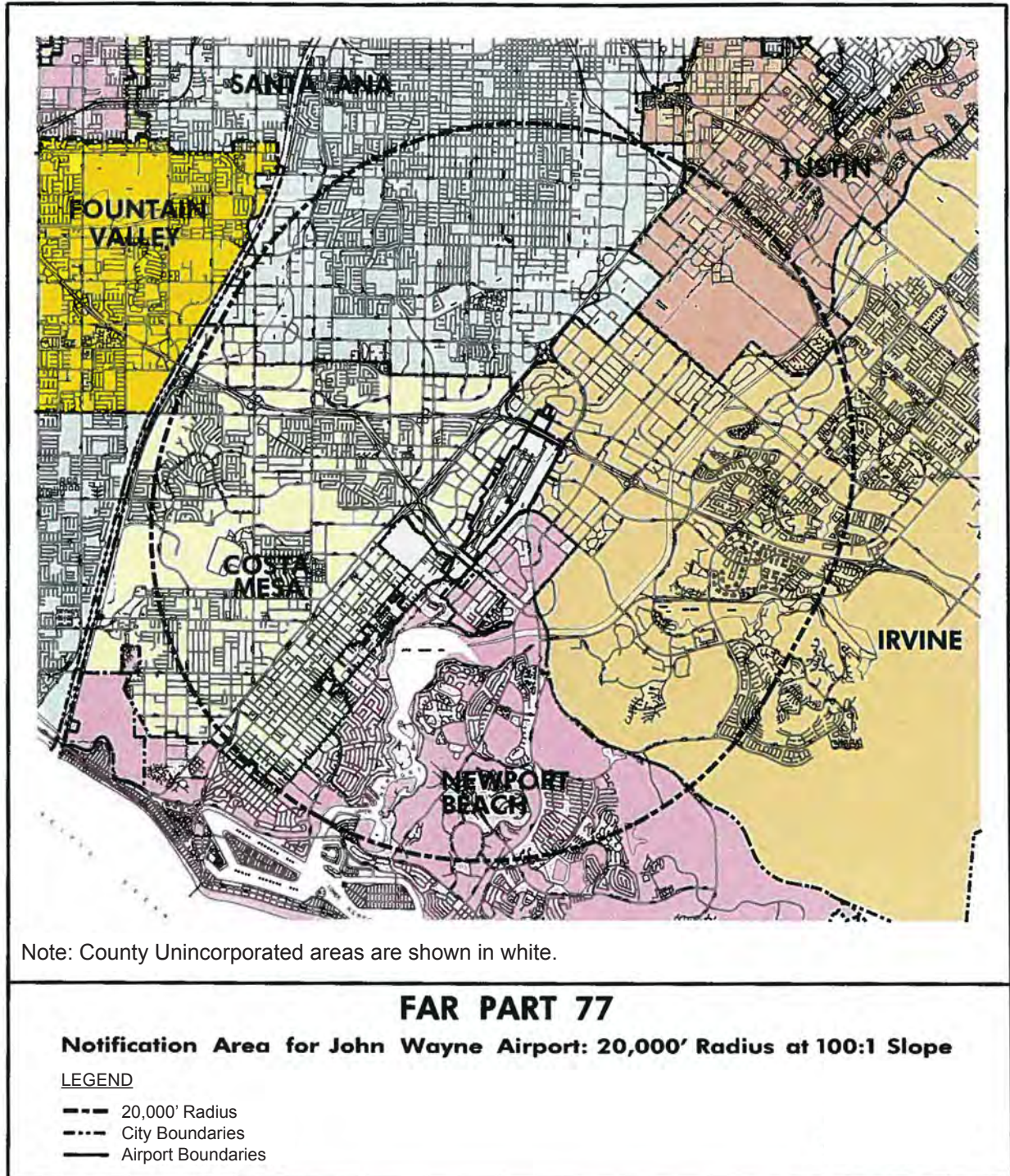
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## 5. Environmental Analysis

Figure 5.5-7

### Notification Area for John Wayne Airport



Note: Proponents of structures that would exceed the Notification elevation must notify the FAA pursuant to FAA Part 77 Regulations.



Land Use Element Update  
**Supplemental EIR**



CNB - 15.0 5/15/2014 3:27 PM  
0 5,000 10,000 Feet

### 3. Revisions to the Draft SEIR

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Attachment

# Attachment A. Distribution of Project Volume Changes

## Attachment

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# Attachment B1. Highway Capacity Manual 2010 Freeway Analysis

**Available online at the City of Newport Beach website**

## Attachment

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# Attachment B2. Highway Capacity Manual 2010 Freeway Analysis Tables

## Attachment

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Attachment

Attachment C.  
Post 2006 General Plan Amendments

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## Attachment

# Attachment D. 19<sup>th</sup> Street Memo

## Attachment

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